

**From:** [Covington, Tayler](#) on behalf of [Region2 PAD News](#)  
**Subject:** News Clips  
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## Region 2 News Clips

### [DEP Says Five Companies Must Pay For PFAS Contamination In NJ](#) (NJ SPOTLIGHT; March 26, 2019)

New Jersey stepped up its nation-leading efforts to curb toxic PFAS chemicals on Monday by ordering five industrial companies to pay for the investigation and cleanup of contaminated sites, and hand over details on their manufacture, use and discharge of the chemicals.

### [Grasse River Dredging Project Starts in April](#) (DREDGING TODAY; March 26, 2019)

The U.S. Environmental Protection Agency (EPA) announced yesterday that dredging will begin in April to clean up sediment contaminated with polychlorinated biphenyls (PCBs) at the Grasse River Superfund Site (aka Alcoa Aggregation) in Massena, New York.

### [New Jersey orders cleanup of clothing, cookware chemicals New Jersey orders cleanup of clothing, cookware chemicals](#) (ASSOCIATED PRESS; March 25, 2019)

New Jersey is ordering five companies that manufacture chemicals used to stain-proof clothing and produce non-stick cookware to spend what could be hundreds of millions of dollars to clean up contamination from the substances.

### [Joint Base has long history with the chemical New Jersey just told 3M, Dupont and others to clean up](#) (ASBURY PARK PRESS; March 25, 2019)

New Jersey laid out a plan Monday to hold five major companies accountable for spoiling the environment and water supplies, including at the Shore, with a group of chemicals linked to cancers and developmental disabilities.

### [NJ cites major chemical companies for pollution, expects costs to reach 'hundreds of millions' of dollars](#) (BURLINGTON COUNTY TIMES; March 25, 2019)

In a directive issued Monday, the New Jersey Department of Environmental Protection says five chemical companies, including DowDuPont and 3M, are on the hook for millions of dollars to clean PFAS chemicals from the state's environment.

### [One in five residents get contaminated tap water. NJ is ordering companies to clean it up](#) (NORTH JERSEY RECORD; March 25, 2019)

Gov. Phil Murphy's administration has ordered five companies responsible for widespread pollution of drinking water systems to spend millions of dollars to assess the extent of contamination and eventually clean up the pollution.

### [This chemical has been polluting N.J. for decades. Now, 5 companies have to pay big to clean it up.](#) (NJ.COM; March 25, 2019)

Five chemical companies polluted New Jersey's water for years with a long-lasting, cancer-causing family of chemicals. Now, the state is directing those companies to clean up the mess.

### [Millions to billions: A price breakdown of the Gowanus Canal's costly sewage tanks](#) (BROOKLYN DAILY EAGLE; March 25, 2019)

The price of two sewage retention tanks built for the Gowanus Canal has ballooned from a projected \$78 million to \$1.2 billion — more than 15 times the initial figure and more than double the estimated cost of the Superfund cleanup in its entirety.

### [Wettest year on record takes toll on some Pinelands trails](#) (PRESS OF ATLANTIC CITY; March 25, 2019)

Wearing tall waders, David Sauder walked across partially submerged concrete trails that snake

through part of the Unexpected Wildlife Refuge, a 767-acre forest and wetland named after the road that leads to it.

[New Jersey orders cleanup of clothing, cookware chemicals](#) (GLENS FALLS POST-STAR; March 25, 2019)

New Jersey is ordering five companies that manufacture chemicals used to stain-proof clothing and produce non-stick cookware to spend what could be hundreds of millions of dollars to clean up contamination from the substances.

[Coalition Gets Antsy, Urges Rebate Program for Electric Vehicles](#) (NJ SPOTLIGHT; March 25, 2019)

Hoping to jump-start the state's efforts to electrify its transportation system, a coalition of organizations is urging Gov. Phil Murphy to take immediate steps to create a market for electric vehicles.

[Preservation group buys forest land along Catskill mountain](#) (GLENS FALLS POST-STAR; March 25, 2019)

A preservation group has acquired land adjacent to the Catskill Park's Sundown Wild Forest to protect clean drinking water for New York City and improve public access for hiking.

[Environmental advocates criticize EPA cuts](#) (ALBANY TIMES UNION; March 25, 2019)

Environmental advocates joined U.S. Rep. Paul Tonko at the state Capitol on Friday to call on President Donald J. Trump to reconsider proposed cuts to the U.S. Environmental Protection Agency's budget.

[Opinion: Why Trump should call off the EPA's latest assault on NYC](#) (NEW YORK POST; March 25, 2019)

Give Gotham credit: Whatever its other failings, the city understands that without high-quality drinking water, we have nothing. Now, President Trump's Environmental Protection Agency is forcing Big Apple residents to spend \$3 billion to "improve" and cover over a Yonkers reservoir.

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## Full Articles

### Region 2 News

NJ SPOTLIGHT

## [DEP Says Five Companies Must Pay For PFAS Contamination In NJ](#)

March 26, 2019

New Jersey stepped up its nation-leading efforts to curb toxic PFAS chemicals on Monday by ordering five industrial companies to pay for the investigation and cleanup of contaminated sites, and hand over details on their manufacture, use and discharge of the chemicals.

The Department of Environmental Protection said the companies are responsible for “significant contamination” of New Jersey’s water and air with the chemicals and have understood their toxic nature for decades even as scientists raise increasing concerns about health risks.

Now, the companies are being directed to compensate the DEP for its testing and remediation of the sites so far, and to take responsibility for cleanup going forward.

“Respondents are responsible for the significant PFAS contamination across New Jersey and the costs the Department has incurred, and will incur, responding to this threat to public health, safety and the environment,” the DEP said in a **16-page directive**.

It named Solvay Specialty Polymers and Solvay Solexis; E.I. Dupont de Nemours and DowDupont; Dupont Specialty Products; Chemours, and 3M as the responsible parties.

### **New health limits on two of the chemicals**

It also announced long-awaited health limits on two of the chemicals — PFOA and PFOS — that will be formally adopted for drinking water on April 1. The new maximum contaminant limits (MCLs) of 14 parts per trillion and 13 parts per trillion, respectively, will match new state groundwater standards for the chemicals.

Last September, New Jersey became the first state in the country to regulate another PFAS chemical, PFNA, and is setting tough new standards in the absence of federal regulation. The chemicals, formerly used in consumer products like non-stick cookware and flame-retardant fabrics, are linked to some cancers and other complaints including low birth weights, immune-system problems, and elevated cholesterol.

The Environmental Protection Agency, which has been under pressure from advocates to set national standards on PFAS, said in February that it would begin the process of regulating PFOA and PFOS but didn’t specify limits nor say how long it would take to implement them.



*Catherine McCabe, DEP commissioner*

DEP Commissioner Catherine McCabe said any EPA regulation could take years to implement and so it was incumbent on states to act.

“Now is the time for action at the state level,” said McCabe. “The current EPA plan leaves millions of Americans exposed to harmful chemicals for too long by choosing a drawn-out process that will delay establishing a federal maximum contaminant level for PFAS.”

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### **First in the nation**

McCabe said the directive was the first of its kind in the nation, and takes its authority from state laws on air and water pollution and spill compensation.

Ed Lloyd, an environmental law professor at Columbia University, said the department has clear legal authority to issue the directive, which he said is certainly the first initiative of its kind on the PFAS chemicals.

“This is the use of comprehensive department authority to solve a problem in a comprehensive and complete way,” he said. “They have clear statutory authority to do this, and they are exercising it in an appropriate and legal manner.”

The Environmental Working Group, a national nonprofit that advocates for tougher PFAS standards, said New Jersey’s latest move shows that it is far ahead of the EPA in curbing the chemicals.

“New Jersey is taking real steps to address the statewide contamination of PFAS chemicals, and importantly ensure that the polluters are held responsible for funding the cleanup,” said EWG senior scientist, Dr. David Andrews, in a statement. “New Jersey should serve as a model for collecting information about past and ongoing PFAS use.”

### **‘...lack of federal action’**

With its new move to hold manufacturers responsible, New Jersey confirmed its position as a leader in governmental efforts to protect public health from the chemicals.

“This is much-needed forthright action by New Jersey in the face of the expanding PFAS water crisis and the lack of federal action by the Environmental Protection Agency,” said Tracy Carluccio, deputy director of the Delaware Riverkeeper Network, an environmental group that has long campaigned for strict regulation of the chemicals. “The directive today and the proposal to adopt PFOA and PFOS safe drinking water standards on April 1 are providing the protection so urgently needed across the state, where PFAS contamination is amongst the highest in the nation.”

DEP tests of public water systems in all but one of New Jersey’s counties during 2009 and 2010 found up to eight PFAS chemicals in 70 percent of samples. In 2018, officials placed consumption advisories on some fish after they were found to contain the chemicals at 10 sites. By March 19 this year, about a fifth of public water systems sampled were found with as many as three PFAS chemicals at or above the official health limits, the DEP said.

Some private water wells are also contaminated. By June 2018, 284 private wells out of 992 sampled had PFOA at above the health limit, while 40 exceeded the limit for PFOS.



Concern about the chemicals is **especially acute at military bases** such as New Jersey’s Joint Base McGuire-Dix-Lakehurst where PFAS chemicals were used for years in firefighting foam, and where contamination levels are high.

The DEP accused one of the five companies, Solvay Specialty Polymers, of discharging “massive amounts” of a chemical that consists of about 75 percent PFNA into the air and water near its factory in West Deptford, Gloucester County, between 1990 and 2012.

The chemicals don’t break down in the environment, and so persist in water and soil in some places even after they are no longer made or used there.

State officials have so far sampled 400 wells around the Solvay site, and have found 83 of them require installation of a system to treat for PFNA or PFOA. Within 90 days, the DEP ordered the company to assume maintenance and operation of 70 sites near its plant where state officials have installed the treatment facilities.

It also ordered Solvay to pay \$3.1 million to the DEP as reimbursement for its cost in investigating and treating for the chemicals near the West Deptford facility.

In 2013, Solvay began testing for PFAS chemicals near its plant after high levels of PFNA were found in nearby Paulsboro. On Monday, the company said it’s reviewing the DEP’s directive, and has been sharing information about the chemicals near its plant with state officials and local stakeholders.

### **Companies issue statements**

“Solvay has been responding to the presence of compounds in the vicinity of its West Deptford plant and has implemented remedial activities,” the company said in a statement.

Chemours, which operates the Chambers Works plant at Deepwater in Salem County, said it too is sharing information with the DEP on emission of the chemicals, and is working to reduce them.

“Chemours has been significantly investing in emission control technologies at our fluoroproducts sites and has previously announced our global corporate responsibility goal to reduce air and water emission of fluorinated organic chemicals by 99% or greater,” the company said.

The DEP said PFOA and other PFAS chemicals “continue to be discharged” at the Chambers Works site, which has been in operation since the late 19th century. In addition, the company is using so-called **replacement chemicals** including Gen-X which experts say may be just as toxic as the chemicals they are designed to replace. One of the replacements, HFPO-DA, has been found in residential water wells near Chambers Works, DEP said.

Minnesota-based 3M, a leading manufacturer of PFOA and PFOS, did not respond to a request for comment.

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## DREDGING TODAY

### [Grasse River Dredging Project Starts in April](#)

March 26, 2019

The U.S. Environmental Protection Agency (EPA) announced yesterday that dredging will begin in April to clean up sediment contaminated with polychlorinated biphenyls (PCBs) at the Grasse River Superfund Site (aka Alcoa Aggregation) in Massena, New York.

PCB contamination is the result of past waste disposal practices at the Alcoa West (now Arconic) facility.

In 2013, EPA selected a cleanup plan for the site that called for dredging and capping of PCB-contaminated sediment in a 7.2-mile stretch of river.

Since that time, Arconic has been working out the details of how the dredging and capping work will be carried out, under EPA oversight. Arconic is performing the work, estimated at \$243 million, under an EPA order.

*“EPA continues to work collaboratively with New York State and the Saint Regis Mohawk Tribe on the oversight and coordination of this critically important cleanup of the Grasse River, including engagement in recent months to ensure a full understanding of their perspectives,”* said EPA Regional Administrator Pete Lopez. *“The removal of over 100,000 cubic yards of contaminated sediment along the shores of the Grasse River, along with thoughtful attention to habitat reconstruction, will go a long way toward achieving the ultimate restoration of the river’s health.”*

The dredging portion of the cleanup is expected to be completed by late fall. Beginning in 2020, clean material will be placed in the river’s main channel to encapsulate PCB contamination in the river bottom. The dredging, capping and habitat reconstruction work is expected to take approximately 4 years to complete.

The EPA will hold public meetings on April 3 in Massena and April 4 in Akwesasne to discuss the details of the work to be performed in 2019.

During the 2019 dredging season, mechanical dredges will be used to remove PCB-contaminated sediment from near-shore areas of the project using environmental buckets.

Excavated sediment will be transported by barge to a staging area located next to the river, near the intersection of County Route 42 and Route 131 in Massena, for offloading, processing and dewatering.

As EPA reported, the dredging will generally be performed upstream to downstream, except for a few upstream areas which have been identified as lake sturgeon spawning areas. Work will not begin in these upstream areas until the middle of June.

Dredges are expected to work on the river 12 hours a day, Monday through Saturday, through the fall. Project activities will be conducted through the night time hours at the staging area.

Contaminated sediment water will be collected and pretreated at the staging area before being sent to the Arconic West plant for additional treatment and subsequent discharge into the Grasse River.



Processed sediment will be loaded into dump trucks for transport to the permitted landfill at the Arconic West plant. Trucks leaving the staging area will be thoroughly cleaned before exiting the site.

In 2019, an additional shoreline support area will be constructed near Haverstock Road. Clean capping material, needed for work in the main channel in 2020, will be brought to this area by truck and transported by pipeline to the cap placement equipment on the river. Other work to be conducted in 2019 includes the removal of an estimated 7,500 cubic yards of contaminated soil from the floodplain and areas along the north shore of the river near the Alcoa Bridge.

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#### ASSOCIATED PRESS

#### [New Jersey orders cleanup of clothing, cookware chemicals New Jersey orders cleanup of clothing, cookware chemicals](#)

By Wayne Parry

March 25, 2019

New Jersey is ordering five companies that manufacture chemicals used to stain-proof clothing and produce non-stick cookware to spend what could be hundreds of millions of dollars to clean up contamination from the substances.

The state Department of Environmental Protection Mo ordered the manufacturers Monday to provide a detailed account of their use and discharge of so-called PFAS substances over the years.

The firms — Solvay, DuPont, Dow DuPont, Chemours and 3M — also must pay to clean up any contamination they caused. If they refuse or drag their feet, they could be charged three times the amount of money the state spends to deal with the problem.

The substances are sometimes called “forever chemicals” because they do not break down, and tend to accumulate in the air, water, soil and even fish. They can harm fetuses and newborns, and have been associated with kidney and testicular cancer, auto-immune illnesses and decreased response to vaccines, according to the state.

They have been used for more than 60 years and have become staples of modern life for consumers who want to protect their clothing from stains or water, and prevent food from sticking to cookware. They have been used in brands such as Stainmaster, Scotchgard, Teflon, Gore-Tex, and Tyvek, according to the state Department of Environmental Protection.

“In issuing this directive, we are putting these five companies on notice that many years of contaminating New Jersey’s precious drinking water and other natural resources will not go unchecked,” said Catherine McCabe, New Jersey’s environmental protection commissioner. “On behalf of all New Jerseyans, we will hold these companies accountable and insist that they step up to address the problem they have created.”

Chemours issued a statement saying it is in regular contact with the state regarding such substances and had already decided to reduce air and water emissions of such substances by at least 99 percent.

Solvay said it has already begun remediation efforts at its West Deptford, New Jersey facility, where such compounds are present.

The other companies did not respond to requests for comment.

McCabe said the substances are discovered on a near-daily basis in New Jersey’s drinking water, groundwater, surface waters, sediments, soils, air, fish, plants and other natural resources. Similar contamination has occurred throughout the country.

The U.S. Environmental Protection Agency announced a plan to address PFAS contamination nationally, but that plan could take years to enact.



The companies have 21 days to say whether they intend to comply with the directive, which the state says is authorized by New Jersey's Spill Compensation and Control Act, Water Pollution Control Act, and Air Pollution Control Act.

"This is critical that DEP is going after these companies to make them clean up their mess they made," said Jeff Tittel, director of the New Jersey Sierra Club. He said the state's limits for these substances in drinking water will be the strongest in the nation.

The department would decide whether any plan proposed by the companies is sufficient, McCabe said.

She recommended consumers avoid products that use these substances but acknowledged it is often hard to know whether they are present in a particular item of clothing or kitchenware.

"It seems like we keep doing this to ourselves: inventing these fabulous new things — remember DDT? — and putting them into commerce without looking enough at the risks," McCabe said.

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ASBURY PARK PRESS

### **Joint Base has long history with the chemical New Jersey just told 3M, Dupont and others to clean up**

By Russ Zimmer

March 25, 2019

New Jersey laid out a plan Monday to hold five major companies accountable for spoiling the environment and water supplies, including at the Shore, with a group of chemicals linked to cancers and developmental disabilities.

The directive from the New Jersey Department of Environmental Protection seeks information on PFAS and money to clean up these dangerous chemicals from Solvay, DuPont, Dow DuPont, Chemours and 3M.

"DuPont and 3M knew of the health and environmental impacts of PFAS for decades but continued to use them in products and release them into the environment," the directive reads.

Military bases, including Joint Base McGuire-Dix-Lakehurst, were a consistent source of PFAS contamination for years.

PFAS, a family of manmade polyfluoroalkyl substances, was an ingredient in firefighting foam used by the U.S. Department of Defense since the 1960s to fight oil fires and for related training exercises.

Municipal water nearby was unaffected, according to the Joint Base, but five adjacent homes served by private wells were found to contain greater than 70 parts per trillion of PFAS chemicals, which is the health advisory threshold set by the U.S. EPA. Those homes were provided bottled water or outfitted with new treatment systems, according to a spokeswoman for the Joint Base.

PFAS are virtually ubiquitous, as you can see in the video at the top of the page. Present for decades in dozens of household products, these chemicals never breakdown in the environment — or in us.

The federal Centers for Disease Control and Prevention, in blood samples taken from about 2,000 Americans in 2003 and 2004, found PFAS in 98 percent of participants' blood.

Statewide, 1 in 5 utility customers were fed drinking water between 2010 and 2015 that contained at least trace amounts of PFAS.

Clean water advocates argue that the federal threshold — which is merely a guidepost and not an enforceable limit, at least for now — should be 1 part per trillion or lower to prevent associated health risks, including developmental problems in children, fertility issues, weakened immune

system and the increased chance of prostate, kidney and testicular cancers.

The state of New Jersey is at the forefront of restrictions on PFAS, setting actionable maximums on PFNA and PFOA that are well below the federal threshold.



Power in the Pines - Joint Base McGuire-Dix-Lakehurst air show

The Air Force is using the same protocol as the Superfund program, the EPA's cleanup initiative for the most dangerously polluted sites, to address PFAS at the Joint Base..

"Currently, we're still in the process of identifying, responding and preventing future drinking water exposures, and there's no set time frame for when remediation of groundwater will begin," Angelique Smythe, McGuire-Dix-Lakehurst spokeswoman, told the USA TODAY NETWORK New Jersey in a recent interview.

Naval Weapons Station Earle in Colts Neck has also been identified as a source of pollution for the same aqueous film-forming foam that is blamed for the pollution at the Joint Base. However, the military believes no further action is necessary at Earle after the Navy remedied problems for two homeowners near the base where groundwater testing identified problems.

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BURLINGTON COUNTY TIMES

[\*\*NJ cites major chemical companies for pollution, expects costs to reach 'hundreds of millions' of dollars\*\*](#)

By Kyle Bagenstose

March 25, 2019

*In a directive issued Monday, the New Jersey Department of Environmental Protection says five chemical companies, including DowDuPont and 3M, are on the hook for millions of dollars to clean PFAS chemicals from the state's environment.*

New Jersey has **issued a directive** to five major chemical companies, demanding compensation for what it expects will be “hundreds of millions” of dollars in costs relating to per- and polyfluoroalkyl substances, or PFAS.

In a **16-page filing** and corresponding news release, the state Department of Environmental Protection holds accountable 3M, Chemours, DowDuPont, DuPont and Solvay for what it calls “significant contamination of New Jersey’s natural resources, including the air and waters of the state.”

“These PFAS compounds constitute a substantial threat to human health and the environment and a statewide public nuisance,” the notice stated, calling the chemicals’ presence in the state “ubiquitous.”

PFAS chemicals were used for decades in a variety of commercial and industrial products, most notably Teflon pans, stain and water resistant clothing, food packaging and firefighting foams. The toxicity of early versions of PFAS chemicals has been linked by numerous studies to health effects including high cholesterol, developmental effects, immunotoxicity in children, ulcerative colitis, and some cancers.

Those chemicals have largely been phased out of manufacturing processes by the chemical industry, although newer, replacement compounds have also drawn increasing scrutiny.

NJDEP accuses the companies of contaminating the environment with both original and replacement PFAS chemicals and seeks compensation for about \$3 million in costs incurred by the state so far. The directive also requests a “good faith” agreement between the companies to pay for ongoing cleanup costs, which the state estimates will reach “hundreds of millions of dollars.”

“The PFAS group of chemicals are ubiquitous in our environment and pose significant health risks to the public,” DEP commissioner Catherine McCabe said in a prepared statement. “In issuing this directive, we are putting these five companies on notice that many years of contaminating New Jersey’s precious drinking water and other natural resources will not go unchecked.”

The directive was filed under the state’s Spill Compensation and Control Act, Water Pollution Control Act, and Solid Waste Management Act.

The directive also lays out the cause of DEP’s concern. It notes PFAS was found in as much as 70 percent of samples taken during statewide testing programs, and added that environmental testing has discovered widespread PFAS in water bodies and fish, leading to the creation of fish consumption advisories in 10 locations.

Jeff Tittel, president of the New Jersey Sierra Club, applauded the DEP directive.

“The department has come up with a strong plan,” he said. “(The Spill Act) is one of their most powerful tools.”

Tittel noted that under the law, polluters typically have little means for legal recourse. The state also holds the ability to conduct the cleanup work itself and then bill a polluter triple the cost if it doesn’t comply, a power the DEP also noted in its directive.

In an emailed statement, Chemours said it is “in the process of reviewing” the DEP directive, but added it regularly interacts with the DEP and shares information on PFAS emissions.

“Chemours is committed to taking a leadership role in environmental stewardship and supports the development of a science and risk-based approach to establish standards and guidelines for PFAS,” the statement read. “Chemours has been significantly investing in emission control technologies ... and announced our global corporate responsibility goal to reduce air and water emission of fluorinated organic compounds by 99 percent or greater.”

Dan Turner, a spokesman for DuPont, which is owned by the same conglomerate as DowDuPont, said the company is also “reviewing” the directive.

“We engage with NJDEP on a regular basis regarding operations at our New Jersey facilities, and will work with them to better understand the directive,” Turner wrote in an email.

The NJDEP filing further lays out an accounting of what pollution it says each company generated.

At a plant in West Deptford, Gloucester County, the DEP says Solvay manufactured a PFAS compound for more than 20 years, and “discharged massive amounts” of the chemical into the surrounding environment. Of 400 wells sampled nearby, 83 required the installation of a treatment system, which NJDEP says the company now must pay for.

In an email, Solvay spokesman David Klucsik said the company is “evaluating” the directive and “has been responding to the presence of compounds in the vicinity of its West Deptford plant and has implemented remedial activities.”

“Solvay shares the information it gathers with the NJDEP, and Solvay maintains an ongoing dialogue with the Department and other stakeholders around its West Deptford site,” he added.

At a DuPont “Chambers Works” facility in Salem County, the state alleges the company received waste from another plant in West Virginia and discharged it off-site.

“Dupont has discharged (PFAS) from Chambers Works for decades, which has contaminated the site and the surrounding area,” the DEP alleged.

The state also named 3M as a major supplier of PFAS until the early 2000s, and noted the company also sold firefighting foams containing the chemicals to the military.

Use of those foams at Joint Base McGuire-Dix-Lakehurst and the Federal Aviation Administration’s William J. Hughes Technical Center at the Atlantic City International Airport has resulted in “significant contamination of surrounding drinking water sources and natural resources,” the DEP added.

In its directive, the DEP also alleged that some of the companies had advance warning on PFAS toxicity.

“DuPont and 3M knew of the health and environmental impacts of PFAS for decades but continued to use them in products and to release them into the environment,” the DEP stated, citing what it says were internal studies conducted by the companies.

The directive gives Solvay 30 days to reimburse the department \$3.1 million for costs from its Gloucester County facility, and includes the rest of the companies under a separate 30-day deadline to “discuss a good faith estimate for future costs to investigate, test, treat, cleanup, and remove” three PFAS compounds from the state’s environment.

Commissioner McCabe also noted that the chemicals remain unregulated at the federal level, and joined other states in saying that a PFAS Action Plan recently released by the Environmental Protection Agency does not move swiftly enough.

“Now is the time for action at the state level,” McCabe said in a prepared statement. “The current EPA plan leaves millions of Americans exposed to harmful chemicals for too long by choosing a drawn-out process that will delay establishing a federal maximum contaminant level for PFAS.”

In a news release touting the DEP’s actions, Tracy Carluccio, deputy director of the nonprofit Delaware Riverkeeper Network, also touched on the dynamic.

“New Jersey is leading the charge against these companies that have so egregiously polluted our state and risked the health of millions of residents,” Carluccio said. “This is much needed forthright action by New Jersey in the face of the expanding PFAS water crisis and the lack of federal action.”

Although citing different authorities, there is some national precedent for a state seeking to compel a chemical company to pay for alleged PFAS damages. Last February, 3M agreed to a \$850 million settlement with the Minnesota Attorney General’s Office over widespread PFAS contamination in that state.

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## One in five residents get contaminated tap water. NJ is ordering companies to clean it up

By Scott Fallon and Russ Zimmer

March 25, 2019

Gov. Phil Murphy's administration has ordered five companies responsible for widespread pollution of drinking water systems to spend millions of dollars to assess the extent of contamination and eventually clean up the pollution.

The directive by the state Department of Environmental Protection targets some of the biggest chemical manufacturers in the nation: 3M, DuPont, Dow DuPont, Chemours and Solvay.

At issue are PFAS, which stands for polyfluoroalkyl substances — a group of man-made, toxic chemicals including PFOA, PFOS and GenX that have been in everyday use for almost 80 years.

Nearly one in five New Jersey residents receive tap water that contains at least trace amounts of one of these chemicals, some of which have been linked to cancer.

Among the products containing the chemicals are non-stick pans, polishes, waxes, paints, cleaning products, and fire-fighting foams. Brand names that contain the chemicals include Stainmaster, Scotchgard, Teflon and Gore-Tex.

The chemicals have contaminated drinking water systems nationwide, including many throughout New Jersey. They do not break down in the environment.



The directive issued Monday is the first step toward compelling the companies to pay for what is anticipated to be a large-scale cleanup.

"We are putting these five companies on notice that many years of contaminating New Jersey's precious drinking water and other natural resources will not go unchecked," said DEP Commissioner Catherine McCabe. "On behalf of all New Jerseyans, we will hold these companies accountable and insist that they step up to address the problem they have created."

The case is built on New Jersey's Spill Act, which allows the state to seek damage claims against polluting entities. The directive requires the companies to provide information on the discharge of PFAS through wastewater treatment plants, air emissions and sales of products containing the chemicals.

The directive, which drew praise from environmental groups like the New Jersey Sierra Club, Clean Water Action the Delaware Riverkeeper Network, offers no estimate for the cost of a cleanup.

But Larry Hajna, a DEP spokesman, likened the directive to litigation the state took against Sunoco, BP and Shell over MTBE contamination that netted the state \$350 million in recent years.

Identified sources of fluorinated compounds in New Jersey include:

- Naval Weapons Station Earle, Colts Neck (Monmouth County)
- Joint Base McGuire-Dix-Lakehurst (Ocean County)

- Solvay Specialty Polymer and Arkema, West Deptford (Gloucester County)
- DuPont's Chambers Works facility, Pennsville (Salem County)

Testing required by the U.S. Environmental Protection Agency from 2013 to 2016 showed that about 16 million Americans were being served water where PFOA had been detected, according to an analysis by the Environmental Working Group. Of those, 1.6 million were in New Jersey -- the most of any state.

New Jersey has adopted some of the strictest standards for some PFAS chemicals in recent years that will force water providers to remove an industrial chemical found in several drinking water systems.

Among those affected water customers are 61,700 people in four towns served by Ridgewood Water, where 44 of its 52 municipal supply wells are contaminated.

Ridgewood Water filed a lawsuit last month against 3M, DuPont, Chemours, Honeywell International and other companies alleging they "knew or should have known" that their chemical firefighting products were soluble and "very likely to contaminate surface and groundwater," posing health risks. The utility is installing large carbon filters to remove the PFAS chemicals.

The new DEP directive lists why each company is responsible for New Jersey's contamination:

- 3M manufactured 85 percent of the world's PFOA and supplied the chemical to DuPont at its Chambers Works facility along the Delaware River in Salem County. 3M also supplied PFAS chemicals to Joint Base McGuire-Dix in Ocean County and the FAA William J. Hughes Technical Center at Atlantic City airport.
- DuPont/Dow DuPont began using PFOA in the 1950s at Chambers Works to be used in fire resistant and non-stick products. DuPont also accepted large quantities of PFOA waste from other manufacturing sites to process at its wastewater treatment plant at Chambers Works. The site and wells as far as five miles away are contaminated. DuPont also used PFOA at its Parlin Facility in Sayreville, Middlesex County. Nearby wells in Perth Amboy are contaminated.
- Chemours, a DuPont spinoff company, is the current owner of the Chambers Works facility and assumed some of the liability for the contamination.
- Solvay, a Belgium chemical company, is the only company that New Jersey officials gave a cost estimate. The DEP wants Solvay to pay \$3.1 million for the department's past efforts to investigate and clean up the chemicals at sites in Gloucester and Salem counties. The company released "massive amounts" of chemicals into the air and water.

The companies cited on Monday had little to say about the directive.

Dan Turner, a DuPont spokesman, said the company "will work with [DEP] to better understand the directive."

In a statement, Chemours said it hasn't used those chemicals at its sites in New Jersey. While that may be true, Chemours has only existed since 2015 and inherited the liability at the contaminated Chambers Works site.

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NJ.COM

**[This chemical has been polluting N.J. for decades. Now, 5 companies have to pay big to clean it up.](#)**

By Michael Warren

March 25, 2019

Five chemical companies polluted New Jersey's water for years with a long-lasting, cancer-causing family of chemicals. Now, the state is directing those companies to clean up the mess.

On Monday, the New Jersey Department of Environmental Protection issued a directive to five companies -- Chemours, Dow DuPont, DuPont, Solvay and 3M -- aimed at addressing the contamination of what are known as "PFAS" chemicals (short for polyfluoroalkyl and perfluoroalkyl substances).

The chemicals, which are used for products ranging from nonstick cookware to firefighting foam, have been linked to cancer and other health effects, according to the Centers for Disease Control and Prevention.

Under the new directive, which the NJDEP called "groundbreaking," the named companies are required to disclose all information related to their use and discharge of PFAS chemicals in New Jersey. The companies will also be held financially responsible for the remediation and treatment of PFAS-related contamination in the state.

"The PFAS group of chemicals are ubiquitous in our environment and pose significant health risks to the public," NJDEP Commissioner Catherine McCabe said.

"In issuing this directive, we are putting these five companies on notice that many years of contaminating New Jersey's precious drinking water and other natural resources will not go unchecked. On behalf of all New Jerseyans, we will hold these companies accountable and insist that they step up to address the problem they have created."

Under the new directive, McCabe said that Solvay will be expected to pay more than \$3 million for remediation work that was already done in West Deptford, where the company used perfluorononanoic acid (PFNA) from 1985 to 2010. McCabe said she was unsure at this point how much more money the companies will need to commit to clean up.

"We have already spent over \$3 million in responding to the contamination in West Deptford," McCabe said. "So we're asking Solvay to cut us a check, to reimburse us for our costs."

According to company spokesman David Klucsik, Solvay is reviewing the new directive and will respond "appropriately."

"Solvay has been responding to the presence of compounds in the vicinity of its West Deptford plant and has implemented remedial activities," Klucsik said. "Solvay shares the information it gathers with the NJDEP, and Solvay maintains an ongoing dialogue with the Department and other stakeholders around its West Deptford site."

In a statement, Chemours said it was reviewing the NJDEP directive and that it is in regular communication with the state. The company stressed that it does not use two prominent PFAS chemicals, perfluorooctane sulfonate (PFOS) and perfluorooctanoic acid (PFOA,) for its products.

"Chemours is committed to taking a leadership role in environmental stewardship and supports the development of a science and risk-based approach to establish standards and guidelines for PFAS compounds," the company said. "We believe collaboration and transparency are critical to achieving this."

Dow DuPont, which is the parent company of DuPont, also said that it was reviewing the new directive, and that it is in communication with the NJDEP. 3M said that it is reviewing the directive and "looking forward to working" with the state.

The chemicals in the PFAS family have been produced and used commercially and industrially for more than 60 years, but regulatory agencies around the world are only recently starting to understand the health effects, according to the NJDEP.

The state said that PFAS chemicals are discovered on a near-daily basis in the state's water, soils, air, fish, plants and other natural resources. The chemicals are widespread in New Jersey, according to the NJDEP, with the highest concentrations being found in traditionally industrial areas. West Deptford, where the Solvay plant used PFNA, is home to some of the highest levels of PFNA contamination in the world.

Military bases like Joint Base McGuire-Dix-Lakehurst and Naval Weapons Station Earle also have high



levels of PFAS contamination, particularly PFOS which is a common ingredient in firefighting foam.

“The Department of Defense, yes, is responsible for the PFOS contamination that you’ll find around the military bases, and so far they’ve been stepping up to do the monitoring and to look at the work that’s needed to get those under control around those bases,” McCabe said.

Among the most well-studied PFAS chemicals, according to the NJDEP, are PFOS, PFNA, PFOA and GenX, a separate family of chemicals developed to replace PFOA.

None of the chemicals are naturally occurring, according to the NJDEP, and the chemicals do not break down in the environment. According to the CDC, PFAS chemicals can increase the risk of cancer, lower a woman’s chance of getting pregnant and interfere with natural hormones.

The New Jersey Sierra Club, a leading environmental advocacy group in the state, praised the state’s action.

“This is a really important step forward in enforcing New Jersey’s cleanup laws against polluters,” said Jeff Tittel the director of the New Jersey Sierra Club.

The NJDEP’s directive comes as the federal government lags behind in regulating PFAS chemicals. In February, the U.S. Environmental Protection Agency unveiled a nationwide action plan for the problem, but stopped short of setting a national drinking water standard for PFAS chemicals.

“Now is the time for action at the state level,” McCabe said. “The current EPA plan leaves millions of Americans exposed to harmful chemicals for too long by choosing a drawn-out process that will delay establishing a federal maximum contaminant level for PFAS.”

This new directive is not the first step that New Jersey has taken to address PFAS chemicals. Last September, New Jersey became the first state in the nation to set drinking water standards for PFNA. Earlier this month, the NJDEP issued interim groundwater standards for PFOA and PFOS.

McCabe said that state drinking water standards for PFOA and PFOS are expected to come “in the near future.” She added that upgrading drinking water systems across the state to address PFAS chemicals could cost hundreds of millions of dollars.

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BROOKLYN DAILY EAGLE

### [\*\*Millions to billions: A price breakdown of the Gowanus Canal’s costly sewage tanks \(:\)\*\*](#)

By Scott Enman

March 25, 2019

The price of two sewage retention tanks built for the Gowanus Canal has ballooned from a projected \$78 million to \$1.2 billion — more than 15 times the initial figure and more than double the estimated cost of the Superfund cleanup in its entirety.

The federal Environmental Protection Agency claims this steep price tag is a result of the city’s design of the tanks — which differs from the one recommended by EPA — and its choice to build the tanks on private land acquired through eminent domain.

“[The cleanup] includes controls to reduce [combined sewer overflow] discharges and other land-based sources of pollution from compromising the cleanup,” EPA Public Information Officer Elias Rodriguez told the *Brooklyn Eagle*. “The total cost of the cleanup was estimated in 2013 at \$506 million.

“The city’s approach to siting and designing the CSO tanks, including acquiring private property, has increased that portion of the cleanup.”

The city, however, said EPA’s estimate on the cost of the remediation was extremely conservative and didn’t take into account preserving the Gowanus Station Building, a historic structure that

activists fought to save from demolition.

“While the initial federal budget estimate was certainly low, and the preservation of 234 Butler St. will certainly add to the cost, achieving the best cleanup of the canal remains the shared goal,” Ted Timbers, communications director of the New York City Department of Environmental Protection, told the *Eagle*.

DEP, which was named a potentially responsible party for the canal’s pollution, is tasked with covering the cost of the CSO tanks. (The city and National Grid are on the hook for paying for the majority of the cleanup, with more than 25 smaller private parties also contributing.)

The eight-million gallon and four-million gallon tanks, estimated at \$77.7 million in the EPA’s record of decision, are one part of the plan to clean the waterway, which also includes dredging contaminated deposit that has accumulated due to industrial and sewer discharges. The chambers will retain sewage and stormwater that currently release directly into the canal through outfalls.



The price of two CSO tanks is projected to cost \$1.2 billion, more than double the estimated cost of the entire Gowanus Canal cleanup. Eagle file photo by Rob Abruzzese

### **The breakdown**

The *Eagle* requested detailed estimates for the two tanks and an explanation as to how the price could be so vastly different from the one projected by the federal EPA. Below is the city DEP’s price breakdown, according to Timbers, who said the numbers “will certainly change moving forward as some of the items are to be determined.”

**Professional Services (engineering, construction management): \$187 million**

**Head-end property acquisition: TBD**

**Head-end CSO Facility Construction: \$580 million**

**Mid-Canal property acquisition: TBD**

**Mid-Canal CSO Facility Construction: \$300 million**

Even though the two property acquisitions are yet to be determined, the DEP gave a presentation at the Gowanus Canal Community Advisory Group on Jan. 22 that estimated the land acquisitions

would cost about \$190 million. If one adds that number into the above figures, the new total comes out to \$1.257 billion.

### **How did the tanks get so expensive?**

The city's preference to install at least one of the tanks on private land acquired by eminent domain at 234 Butler St. and 242 Nevins St. — rather than on city-owned property — adds significant costs. (A third piece of land will likely need to be seized for staging during construction.)

EPA recommended the larger tank be built underneath the Double D Pool in Thomas Greene Park, a city-owned property that already needs to be remediated.

(The mid-canal four-million gallon tank will be placed on a city-owned "Salt Lot," but DEP has suggested that it may need to acquire additional land next to it for the tank's support facilities, which will add even more expenses.)

Another disparity in cost is the differences in tank design between the federal and city agencies.

EPA's concept included a one-chamber eight-million gallon tank that would collect waste and be emptied into a treatment plant once a storm passed. EPA's estimate did not include a headhouse because it was assumed that, other than odor control and pump housing, all other treatment functions would be performed at a treatment plant where overflow sewage is treated.

DEP decided instead to design a multi-chamber tank with several engineering controls and features that provide different functions for the tank than the one envisioned by EPA.

The costs of the tanks will likely increase based on changes to the neighborhood as well. The city said five million gallon and two million gallon tanks would initially be sufficient, but EPA disputed that amount, saying it preferred an eight million and four million gallon tank — both of which could be increased as Gowanus develops and is rezoned.

"While the sizes of the tanks will be determined during the remedial design, they are expected to ... accommodate projected additional loads to the combined sewer system that result from current and future residential development," the record of decision said.

The projected cost provided by the city for the larger tank has not changed in at least two years, even though the design of it has advanced to near completion. EPA requested a detailed price estimate for it, but the city hasn't provided it yet.

EPA identified the tanks as the organization's preferred technique to capture sewage overflows, but DEP has also floated a half-mile tunnel as another option. EPA will ultimately decide which idea to move forward with.

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PRESS OF ATLANTIC CITY

### **[Wettest year on record takes toll on some Pinelands trails](#)**

By Avalon Zoppo

March 25, 2019



Wearing tall waders, David Sauder walked across partially submerged concrete trails that snake through part of the Unexpected Wildlife Refuge, a 767-acre forest and wetland named after the road that leads to it.

Murky, brown water surrounds trees where there was once a walkway for visitors.

Opened in 1961, it's one of a few South Jersey wildlife trails impacted by the record rainfall last year, which continued into 2019.

"There's never before been a time I wasn't able to navigate the trails," said Sauder, a trustee for the refuge who's been involved with the nonprofit for the past 30 years.

The Atlantic City Airport recorded more than 68 inches of precipitation in 2018, breaking a 70-year record. That pattern hasn't slowed, with the wettest Feb. 12 in recorded history taking place this year.

All of that rain is impacting nature-lovers hoping to experience wildlife up-close. With some trails awash, access is cut off in remote parts of the Pinelands.



About a quarter of the Unexpected Wildlife Refuge is wetlands and visitors typically use concrete walkways to explore the area, but those trails are unwalkable now. It's been an issue for years, Sauder said, but has become worse more recently.

"For 30 years, it's been dry," he said. "You could walk over the boardwalks... Now you need knee-high waders."

Twenty miles north, some trails in the Wharton State Forest are cutoff due to excess rain, said Jason

Howell, stewardship coordinator for the Pinelands Preservation Alliance.

That's because many of the Pinelands trails were built decades ago to sustain average precipitation, not the extreme weather we're seeing.

Howell, who's acquainted with the state forest, said part of the 1.1-mile Tom's Pond Trail are inundated, a path that at points runs along the Mullica River. Much of the lengthy Batano Trail, which sits next to the Batso River, is also underwater, he said.

"Most trails and sand roads simply weren't made with this level of sustained high water," he said. "This has made travel to the more remote parts of the Reserve very difficult."

Plants and trees in the Pinelands are affected by big rains events too.

Scientists at Rutgers University are studying "ghost forests" across South Jersey— large swaths of dead Atlantic white cedar trees that stand at

the edge of salt marshes along the Mullica River. The state once had 115,000 acres of the trees, but is now down to about 30,000 acres.

Researchers fear more frequent storms, climate change and saltwater intrusion are worsening the decades-old problem.

Recent storms like Hurricane Irene and winter storm Jonas caused extensive flooding that forced salt water into upland wooded areas where it normally wouldn't flow, killing off trees that cannot tolerate salt water.

Caretakers at the Unexpected Wildlife Refuge might have to spend money to remedy their waterlogged situation.

The nonprofit is considering elevating five miles of trails for its visitors. The group recently hired an engineering consultant for the project.

Sauder doesn't know the cost yet, but said it could be thousands of dollars and would require prior approval from the Pinelands Commission.

For now, though, they're paying close attention to future forecasts.

"If this were to continue, we'd have to make drastic changes," Sauder said. "Maybe this is an anomaly... (But) it could be a trend that may not let up."

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GLENS FALLS POST-STAR

[New Jersey orders cleanup of clothing, cookware chemicals](#)

By Wayne Parry

March 25, 2019





New Jersey is ordering five companies that manufacture chemicals used to stain-proof clothing and produce non-stick cookware to spend what could be hundreds of millions of dollars to clean up contamination from the substances.

The state Department of Environmental Protection Mo ordered the manufacturers Monday to provide a detailed account of their use and discharge of so-called PFAS substances over the years.

The firms — Solvay, DuPont, Dow DuPont, Chemours and 3M — also must pay to clean up any contamination they caused. If they refuse or drag their feet, they could be charged three times the amount of money the state spends to deal with the problem.

The substances are sometimes called "forever chemicals" because they do not break down, and tend to accumulate in the air, water, soil and even fish. They can harm fetuses and newborns, and have been associated with kidney and testicular cancer, auto-immune illnesses and decreased response to vaccines, according to the state.

They have been used for more than 60 years and have become staples of modern life for consumers who want to protect their clothing from stains or water, and prevent food from sticking to cookware. They have been used in brands such as Stainmaster, Scotchgard, Teflon, Gore-Tex, and Tyvek, according to the state Department of Environmental Protection.

"In issuing this directive, we are putting these five companies on notice that many years of contaminating New Jersey's precious drinking water and other natural resources will not go unchecked," said Catherine McCabe, New Jersey's environmental protection commissioner. "On behalf of all New Jerseyans, we will hold these companies accountable and insist that they step up to address the problem they have created."

Chemours issued a statement saying it is in regular contact with the state regarding such substances.

"Chemours has been significantly investing in emission control technologies at our fluoroproducts sites and has previously announced our global corporate responsibility goal to reduce air and water emission of fluorinated organic chemicals by 99 percent or greater," the company said. "We are committed to continue to work with NJ DEP and to determine the appropriate actions and next steps."

The other companies did not immediately respond to requests for comment.

McCabe said the substances are discovered on a near-daily basis in New Jersey's drinking water, groundwater, surface waters, sediments, soils, air, fish, plants and other natural resources. Similar contamination has occurred throughout the country.

The U.S. Environmental Protection Agency announced a plan to address PFAS contamination nationally, but that plan could take years to enact.

The companies have 21 days to say whether they intend to comply with the directive, which the state says is authorized by New Jersey's Spill Compensation and Control Act, Water Pollution Control

Act, and Air Pollution Control Act.

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NJ SPOTLIGHT

### [Coalition Gets Antsy, Urges Rebate Program for Electric Vehicles](#)

By Tom Johnson

March 25, 2019



Hoping to jump-start the state's efforts to electrify its transportation system, a coalition of organizations is urging Gov. Phil Murphy to take immediate steps to create a market for electric vehicles.

In a letter to the governor, more than 55 organizations recommended the administration establish through an executive order a \$45 million rebate program to convince more drivers to buy electric vehicles. They also want him to force a regulatory decision on two filings by utilities to install electric-vehicle charging stations around the state.

The letter, signed by environmental groups, four electric utilities, car dealers, labor and others, signals rising frustration with New Jersey's failure to act on a comprehensive plan to deal with pollution from the transportation sector, the largest source of greenhouse gas emissions in the state.

"It's time to act," said Pam Frank, CEO of Charge EVC, a coalition that organized the letter. "Electric vehicles are recognized as the most effective way to reduce fuel and energy bills, and clean New Jersey's air."

The letter aims to address the two biggest hurdles facing widespread adoption of electric cars: the high cost of zero-emission vehicles and range anxiety — the fear drivers will run out of a charge before they find a refueling station.

#### **The big obstacles: price and charging infrastructure**

"We know that vehicle price and charging infrastructure are the major obstacles to electric vehicle adoption," said James Appleton, president of the NJ Coalition of Automotive Retailers. "New Jersey must do more to align utility ratemaking policy with its stated goal of placing more electric vehicles on the road."

A bill (S-2252) approved by a Senate committee sought to address those issues last fall. It would



have provided rebates to consumers to buy electric cars as well as establish aggressive goals for building the charging infrastructure in the state. But the bill has stalled, apparently a victim of lawmakers' fears of higher utility bills from other clean-energy initiatives also in the queue.

"An executive order of consequence will send a signal to advocates, and the business community that the administration supports and is actively pushing the accelerated transmission to an electrified transportation system," the letter said.

The letter urged funds for establishing a rebate program through the Clean Energy Fund should come from monies that are historically diverted through the annual legislative budget process, a tactic that siphoned off more than \$1 billion from clean-energy programs over the last decade.

### **Extra incentives for lower-income drivers**

To ward off criticism that rebates would only end up subsidizing clean-car purchases for the well-off, the letter recommended mirroring aspects of California's program where additional incentives are targeted for lower-income drivers, as well as enabling ride-sharing services in New Jersey's urban areas.

Clean-car advocates said the timing of the request is important because 2020 will be a notable year for a substantial rollout of new electric cars, SUVs, and trucks at a variety of price points. New Jersey has about 23,000 electric cars on the road. By 2025, it is supposed to have 330,000 zero-emission cars on the road under a clean-car law.

"The incentives are necessary to stimulate the market," said Chuck Feinberg, chairman of the New Jersey Clean Cities Coalition, and a member of the EVC coalition.

Earlier this month, the state Department of Environmental Protection announced it would spend \$11.2 million to install electric vehicle charging stations at hundreds of locations around the state and buy new electric buses for NJ Transit. New Jersey currently has about 800 charging stations at some 322 locations across the state.

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## **GLENS FALLS POST-STAR**

### **[Preservation group buys forest land along Catskill mountain](#)**

March 24, 2019

A preservation group has acquired land adjacent to the Catskill Park's Sundown Wild Forest to protect clean drinking water for New York City and improve public access for hiking.

The Open Space Institute says the parcel off Route 28A in the town of West Shokan consists of forested land along the east side of South Mountain, including part of the summit.

The group says the property has the potential to serve as a new, eastern access point to South Mountain from High Point Mountain Road.

South Mountain rises 2,190 feet high near the west shore of the Ashokan Reservoir and is connected to Ashokan High Point Mountain by a ridgeline. The protection of South Mountain will create new access to these hikes and open additional wild areas to the public.

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## **ALBANY TIMES UNION**

### **[Environmental advocates criticize EPA cuts](#)**

By Brendan J. Lyons

March 22, 2019

Environmental advocates joined U.S. Rep. Paul Tonko at the state Capitol on Friday to call on President Donald J. Trump to reconsider proposed cuts to the U.S. Environmental Protection Agency's budget.

The event coincided with World Water Day and included advocates from Hoosick Falls and Newburgh, where public water systems have been afflicted with pollution from manufacturing contaminants.

Trump's spending plan proposes cutting EPA funding by more than 30 percent, from \$8.9 billion to \$6.1 billion, according to Tonko, D-Amsterdam.

"What's the result with this budget? The president has decided to roll back those funds, so that the progress we made with Republicans and Democrats, senators and members of the House working together ... was disrespected," Tonko said.

He added that efforts to regulate and clean up water systems like those in Newburgh and Hoosick Falls, which are polluted with man-made perfluorinated compounds, also may suffer with EPA budget cuts. Tonko chairs the House Energy and Commerce Subcommittee on Environment and Climate Change.

The president's proposal, the advocates said, also would cut funding to the clean-water revolving loan program, a Great Lakes Restoration Initiative, a Long Island Sound environmental program, and the hazardous substance superfund program.

A spokesman for the White House declined to comment.

The environmental advocates said the revival of the coal-burning industry is also threatening the Adirondacks and the overall health of New York's residents and environment.

Tonko characterized the EPA spending plan as "reckless."

"It's time for us to move forward and address climate change," he said. "We need real leadership at EPA (and) ... in the White House to make certain we do just that."

Ophra Wolf, a member of the Newburgh Clean Water Project said the group's efforts to clean up that area's water supply began about 18 months ago "when we realized that no one was coming to save us."

"Newburgh has serious environmental issues," Wolf said. "We have some of the highest toxicity in the ground and in the water, according to a recent swath done by New York state. ... We need help. We need any agency that's going to protect us. ... People's lives are at risk."

William C. Janeway, executive director of the Adirondack Council, said the proposed cuts would "cripple the EPA's ability to protect the Adirondacks from acid rain and smog coming from outside of New York state. Since the vast majority of our acid rain comes from Midwest smokestacks, the Adirondacks would be left vulnerable."

Judith Enck, a former EPA regional administrator and now a visiting professor at Vermont's Bennington College, said the "weakening" of the EPA will have fallout for potentially decades.

"President Trump's continuing attempts to gut the EPA mean more air pollution and dirtier drinking water that will affect the health of millions of Americans," said Enck, who did not attend Friday's event at the Capitol. "Refusing to let EPA take action to reduce pollutants that cause climate change is the single biggest mistake in the 50-year history of the agency."

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NEW YORK POST

[Opinion: Why Trump should call off the EPA's latest assault on NYC](#)

By Nicole Gelinas

March 25, 2019

Give Gotham credit: Whatever its other failings, the city understands that without high-quality drinking water, we have nothing. Now, President Trump's Environmental Protection Agency is forcing Big Apple residents to spend \$3 billion to "improve" and cover over a Yonkers reservoir.

This is classic overreach — massive taxpayer spending for minimal result — that Trump pledged to stop.

No matter who is mayor, New York jealously guards the reservoirs and pipes that bring us water. Today the city spends \$200 million a year employing 2,600 people to protect the water and sewer system, including guarding and monitoring upstate reservoirs.

Now, though, in a lawsuit filed this month, the US Department of Justice, with EPA support, calls our water system "a serious public-health problem." The supposed risk: Birds can poop in uncovered Hillview Reservoir in Yonkers, the last stop for a billion gallons of already chlorinated and ultraviolet-treated water as it flows into local pipes.

So we have to cover it, likely with concrete. Rather than fight, the city immediately settled, entering into a "consent decree."

Although it's tempting to imagine dark Trumpian forces punishing Democratic New York in this case, there is no evidence that the president knows about this lawsuit. Rather, it's the culmination of a painfully drawn-out process, spanning four administrations.

In 1996, the Clinton-era Congress amended the Safe Drinking Water Act. It took another decade, until 2006, for Bush-era regulators to apply the toughened law to uncovered reservoirs. Obama-era regulators dithered for years over whether the city would have to build the cap. All along, New York City tap water remained as safe and delicious as ever. But no matter, the feds kept pressing for the cap.

Trump was supposed to be different. Ten days into office, the 45th president signed an executive order to "reduce regulation and control regulatory costs" — without, of course, harming the environment. This lawsuit fails on three counts.

First, it isn't science-based. The EPA is upfront that this massive project is to "prevent" harm, not to remediate it. The city regularly tests the water, and the lawsuit doesn't proffer any evidence that anyone has gotten sick. The best the feds can do is to say that "if the Hillview water were to be re-contaminated" after previous chlorine treatment, "health would be threatened."

But consider: Former Mayor Mike Bloomberg was a stickler for public health, yet he spent 12 years in office not capping the reservoir. Would the man who wouldn't let us drink soda let us drink dirty water? Tellingly, even the environmental groups that often sue as third parties to enforce government statutes regarding air and water have left this case alone.

Then, too, New York has until 2049 to complete this project. You're drinking bird poop but have to wait 30 years for the feds to rescue you. That's an odd message to telegraph.

Second, it is an unfunded mandate that ignores local ideas. "You've got a great opportunity to put in place adaptive management" rather than apply a one-size-fits-all rule, Carter Strickland, Bloomberg's environmental protection chief, tells me. The city already manages wildlife at Hillview and can change its methods if and when testing results change.

Third, the feds ignore cost-benefit analysis. If EPA administrator Andrew Wheeler is concerned about local water supply, he ought to start with areas with far less oversight and power over their own supplies. New York's latest (unfounded) state health warning over water bacteria didn't apply to the Big Apple but to tiny upstate Franklin County. All over the country, in places with less media scrutiny than New York, people face real contamination.

Finally, one aspect of the suit is punitive. As part of the settlement, Gotham must pay a \$1 million federal fine, plus \$250,000 in state penalties. By comparison, the DOJ and EPA this month levied a \$616,000 civil penalty against ExxonMobil for clean-air violations arising from a 2013 fire at a Texas refinery that killed two employees.

Meanwhile, drink up, the water's fine — thanks to the resources and self-enlightened intentions of a wealthy city, not the feds.

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## National News

### Politico

#### EPA Texas regional chief moves to air office's second-in-command

<https://subscriber.politicopro.com/energy/whiteboard/2019/03/epa-texas-regional-chief-moves-to-air-offices-second-in-command-2932319>

Alex Guillen

Posted: 4:27pm, March 25, 2019

Anne Idsal, EPA's regional administrator for Region 6, will move to the agency's Office of Air and Radiation as the principal deputy assistant administrator, the office's second-in-command, Administrator Andrew Wheeler said in a [staff memo](#) today.

"Anne will work closely with Assistant Administrator Bill Wehrum to guide EPA's air policy for the country," Wheeler wrote.

Idsal previously served as chief clerk and deputy land commissioner for the Texas General Land Office. Before that she was general counsel for the Texas Commission on Environmental Quality.

Region 6 covers Texas, Louisiana, Arkansas, Oklahoma and New Mexico. Wheeler said that David Gray will serve as the acting regional administrator.

**WHAT'S NEXT:** Idsal starts at EPA headquarters on April 1.

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### Politico

#### Wheeler recuses himself from Pebble Mine decisions

<https://subscriber.politicopro.com/energy/whiteboard/2019/03/wheeler-recuses-himself-from-pebble-mine-decisions-2932173>

Alex Guillen

Posted: 4:24pm, March 25, 2019

EPA Administrator Andrew Wheeler said he will not make any decisions on the controversial proposed Pebble Mine after determining his former firm's work for the developers posed the potential appearance of a conflict.

"Although not necessarily required, I am recusing myself from matters related to the Pebble Mine, including any associated litigation, settlement agreement, and permitting, to avoid the appearance of any ethical concerns in the role of Administrator," Wheeler wrote in an [update to his ethics agreement](#) dated March 20.

Without a confirmed deputy, any decisions related to Pebble Mine may now fall on the agency's general counsel, Matt Leopold.

Speculation about Wheeler's plan to recuse himself from Pebble swirled for months.

Wheeler did not work directly on Pebble issues, but said his old law firm, Faegre Baker Daniels, worked for a client on the mine. Wheeler did not specify which client, but he appeared to reference a meeting arranged by FBD consultant Darrin Munoz in May 2017 between then-Administrator Scott Pruitt and Tom Collier, the Pebble Limited Partnership's CEO.

Pruitt himself made waves in January 2018 when he indicated he had [serious concerns](#) about allowing mining for gold, copper and molybdenum in Alaska's Bristol Bay region. The Trump administration had previously struck a deal with the developer to allow permitting via the U.S. Army Corps of Engineers to continue before EPA decided whether to exercise its veto authority.

Bloomberg first reported Monday on Wheeler's refusal.

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## **E&E News**

### **Are oil majors serious about cutting emissions?**

<https://www.eenews.net/climatewire/stories/1060128099/>

**Benjamin Storrow**

**Posted: March 25, 2019**

Oil and gas companies have long touted their efforts to curb methane emissions from leaky oil-field equipment. They have taken a decidedly dimmer view of government attempts to reduce leaks of the planet-warming gas.

So it was to considerable fanfare earlier this month that BP PLC and Royal Dutch Shell PLC announced their support for federal efforts to regulate methane ([Energywire](#), March 13).

The news followed a similar announcement from Exxon Mobil Corp. in December, when it informed EPA of its support for federal methane standards on new oil and gas wells.

"We recognize methane emissions are a critically important climate issue," Shell President Gretchen Watkins said earlier this month at CERAWEEK by IHS Markit, an industry conference in Houston. "We support and participate in many impactful voluntary programs. But, in this instance, I believe we can do more. I want to make clear Shell's support for the direct regulation of new/modified and existing onshore oil and gas sources in the United States."

The rhetoric represents a potential watershed moment for the industry, which fought former President Obama's efforts to plug leaky oil-field equipment and cheered President Trump's early efforts to roll those back.

But whether the announcements portend a real shift in the industry's position on climate policy or whether they're merely an attempt to generate positive headlines remains an open question.

The upside of the trio's methane commitments for climate action is tremendous. BP, Exxon and Shell not only account for a significant portion of global oil and gas production but are among the most technologically and engineering-savvy companies in the world. Advancements made by the group could help cut the cost of methane mitigation and soon be adopted across the sector.

And if their efforts result in support for methane regulation from the American Petroleum Institute, the industry's leading trade group and a longtime opponent of federal climate efforts, the impact on U.S. policymaking could be substantial, industry observers said.

"Savvy folks in industry will acknowledge that without a level playing field not all people are likely to come along," said Ben Ratner, a senior director at the Environmental Defense Fund. "Even if you had some companies that were proactively reducing emissions in their own operations, emissions are likely to remain unacceptably high. That is a black eye for the entire industry and the perception of natural gas and any credibility it might have in the energy transition."

The majors' growing focus on methane nevertheless comes with a long list of questions, not least of which is their commitment to attacking leaks in the oil field.

Just as BP announced its support for federal methane efforts, Greenpeace released a [report](#) detailing the company's lobbying efforts to weaken the Obama-era standards. The environmental group's findings were soon [corroborated](#) by the *Financial Times*.

BP said it was simply seeking to eliminate redundancy. It supports efforts by EPA to regulate methane but not by the Bureau of Land Management. Still, the incident illustrated the lingering distrust of an industry that has long sought to block emission-reduction policies.

"One way to address that is to acknowledge that you need to move forward to fix it," said Robert Howarth, a researcher who tracks oil-field methane emissions at Cornell University. "But when it is an odorless, colorless gas that people can't see, they can claim they are working hard to contain emissions but there is no way to verify it. It may not be more than marketing."

### **Voluntary efforts**

Oil companies' methane commitments come at an important time for American climate policy. Methane is the primary component of natural gas, which has emerged as an ever-growing part of the country's energy mix. Advancements in horizontal drilling and hydraulic fracturing have unlocked a torrent of cheap gas from U.S. shale formations in recent years.

As a result, gas has overtaken coal as the leading source of electricity generation in the United States, helping to send carbon emissions from the power sector plummeting. Its market share is projected to grow to 37 percent by 2020, up from 28 percent in 2013, according to the U.S. Energy Information Administration.

Whether the fuel can be part of a broad climate solution for the United States is very much open to debate, however.

Last year, a large increase in new natural gas plants was accompanied by an uptick in power-sector emissions. The increase may be an anomaly, owing to a sizzling economy, a cold winter and a hot summer. It nonetheless illustrated the limits of the fuel as a carbon-cutting device.

Methane is an even bigger challenge for the industry. The gas accounts for roughly 10 percent of America's greenhouse gas emissions, according to federal estimates, but its warming potential is 34 times greater than carbon dioxide, making it a disruptive force in the planet's atmosphere. EPA estimates that nearly a third of U.S. methane emissions come from the oil and gas sector.

The industry has long held up companies' voluntary efforts to reduce methane emissions as a sign that federal regulations are unnecessary.

In 2014, a group of oil companies including BP and Shell formed the Oil and Gas Climate Initiative, which has dedicated \$1 billion toward investments in methane reduction. Exxon joined in 2018. BP and Shell have each committed to reducing methane emissions intensity 0.2 percent by 2025, while Exxon has committed to cutting methane emissions 15 percent and flaring 25 percent by 2020.

And companies have pointed to EPA figures showing consistent declines in methane emissions as evidence their efforts are working. Methane emissions were down 15 percent between 1990 and 2017, despite the fact gas production increased 50 percent over that period, Erik Milito, an API executive, wrote in a [blog post](#) last week.

The trade group has continued to push for weakening federal methane rules, even as some of its largest members call for standards. In [comments](#) to EPA on its new source rule, API called for limiting semiannual inspections of well sites proposed under the Obama administration to once a year. It has also proposed exempting low-production wells from methane limits, arguing they would be economically burdensome.

Environmentalists say those moves would significantly weaken the Obama-era standards.

"We support controlling methane through a cost-effective regulatory framework, innovation and industry action like the Environmental Partnership," said Reid Porter, an API spokesman, referring to an industry collaboration focused on improving the sector's environmental performance. "Our industry is action-oriented and results-driven."

## **What oil companies want**

It's not entirely clear where the majors' support for API's position begins and ends. BP and Exxon have echoed the group's call for cost-effective regulation.

At the same time, all three companies have said they support regulations on both new and existing wells, a shift from the Obama years when the industry vigorously fought attempts to regulate existing production facilities.

Exxon did not say in its letter to EPA whether it supported the proposals outlined by API but did express support for "maintaining the key elements of the underlying regulation."

Ryan Jackson, a BP spokesman, did not answer questions on whether the company supported limiting annual inspections or providing exemptions for low-production wells. Instead, he pointed to the company's internal efforts and repeated its call for federal standards, saying, "Natural gas has a critical role to play in helping the world transition to a low-carbon future, but it can only play its part if we control methane emissions."

Shell went a step further than its peers. The company supports biannual inspections at well sites, along with a pathway to annual inspections at sites that can demonstrate methane emissions are under control, said Curtis Smith, a Shell spokesman.

Environmentalists say more comprehensive standards are needed. EPA's methane figures are not based on actual oil-field emissions, but the projected rate of emissions from oil-field equipment. They are also self-reported by companies and not independently verified, though companies face the prospect of fines for lying to federal regulators.

A growing body of academic research suggests EPA's figures consistently underestimate U.S. methane emissions. Where the agency estimates 1.4 percent of American natural gas production is lost to leaks, a [study](#) by the Environmental Defense Fund puts that figure at 2.3 percent. Howarth, the Cornell researcher, thinks the number could be higher still, at around 5 percent of U.S. natural gas production.

The small percentage-point difference is consequential. Natural gas has long been touted as a cleaner alternative to coal, but it loses its greenhouse gas advantage over the black mineral when methane leaks exceed 3 percent of production, according to the Carbon Disclosure Project.

The economic incentive for companies to reduce leaks, meanwhile, only goes so far. Small methane leaks can be expensive to plug but are still detrimental to climate, said Daniel Raimi, a senior researcher at Resources for the Future.

And, in the case of oil production, it's often cheaper for companies to flare off associated gas than capture it.

Raimi described the dynamic like this: "I have an economic incentive to pick up a penny on the ground, but it may not be worth my time. If it's a \$10 bill, I'm going to pick it up. Companies have an incentive to reduce emissions, but they are only going to do it if it's profitable for them."

## **'Much faster than they anticipated'**

The change in tone by the majors on methane reflects growing acknowledgment of the science, analysts said. It also follows increased scrutiny from investors, who have pressed companies to disclose their emission figures and demonstrate their commitment to reducing methane leaks, analysts said.

Oil companies increasingly realize they cannot be on the wrong side of the climate debate and are under pressure to offer solutions for reducing emissions, said Arvind Ravikumar, who studies oil-field emissions at Harrisburg University.

"There are a lot of things coming together right now, and companies are compelled to make statements and even take action on climate change," he said. "I think a lot of them are seeing it and realizing this is going to come much faster than they anticipated."

A bigger question is what role the majors' announcements will have on the industry at large. In the United States, the major oil companies have taken a back seat to independent oil and gas producers



in the so-called Shale Revolution, meaning much of the new production in America today is not covered by the majors' methane targets.

There's also this: Production sites are only a piece of the methane puzzle. Methane leaks occur along pipelines, at processing facilities and in utility gas distribution systems, yet to date federal efforts have largely focused on well sites.

Downstream gas operations accounted for 18 percent of the industry's methane emissions, according to International Energy Agency [data](#) compiled by the Carbon Disclosure Project.

"I think that this is early," said Deborah Gordon, a senior fellow at Brown University's Watson Institute. "It is a really important problem, and we're just starting to get a handle on what it is and how to fix it."

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## **E&E News**

### **Federal oversight of toxics under bipartisan scrutiny**

<https://www.eenews.net/eedaily/stories/1060128137/search?keyword=EPA>

**Courtney Columbus**

**Posted: March 25, 2019**

A duo of hearings this week will scrutinize the administration's approach to chemicals oversight and its plans to remedy claims of contamination.

The House Science, Space and Technology Subcommittee on Environment will review EPA's Integrated Risk Information System program, which assesses the health hazards posed by chemicals.

This week's planned hearing follows a Government Accountability Office report on IRIS released earlier this month.

The report found that from June to December 2018, agency leaders directed employees to stop the program's chemical assessments while priorities were being discussed ([E&E News PM](#), March 4).

New Jersey Democratic Rep. Frank Pallone, who chairs the House Energy and Commerce Committee, last week criticized EPA's list of 40 chemicals to be considered for risk evaluations under the 2016 Frank R. Lautenberg Chemical Safety for the 21st Century Act.

EPA released the list Wednesday. Public health advocates slammed the agency, while the chemicals sector reacted positively ([Greenwire](#), March 20).

"With the announcement of the next set of candidate substances for prioritization, EPA met another important milestone and further demonstrated its commitment to meeting its statutory deadlines for implementing [the statute] in an efficient manner that is consistent with congressional intent," American Chemistry Council spokesman Jonathan Corley said in a statement.

Pallone said the list "raises serious concerns that EPA is failing to prioritize evaluations of the most pressing chemical hazards and undermining the purpose of the Lautenberg Act."

"Instead of addressing dangerous emerging threats like perfluorinated chemicals, which are right now contaminating the drinking water of millions of Americans, the agency is aiming to re-evaluate chemicals like formaldehyde and phthalates — whose risks have already been rigorously evaluated and documented," he continued.

### **PFAS hearing**

Separately, the Senate Environment and Public Works Committee is set to examine the federal response to per- and polyfluoroalkyl substances (PFAS), which are of concern to lawmakers from

both parties.

After EPA released a plan last month for dealing with PFAS, Environment and Public Works Chairman John Barrasso (R-Wyo.) said the plan was "only a first step" and that the agency needed to "speak clearly" about the public health and environmental risks posed by PFAS ([Greenwire](#), Feb. 14).

Officials from EPA, the National Institutes of Health, the Centers for Disease Control and Prevention, and the Department of Defense are scheduled to testify.

PFAS are used in firefighting foam and a wide range of other consumer and industrial products. They have been detected in water near many current and former industrial sites and military installations, and are not federally regulated.

There are roughly 5,000 types of PFAS. Some have been associated with health problems such as certain cancers and liver disease.

Lawmakers have sent a flurry of letters in recent days that press the federal government to act more quickly on PFAS.

Last week, Senate Homeland Security and Governmental Affairs Chairman Ron Johnson (R-Wis.) and ranking member Gary Peters (D-Mich.) [asked](#) Office of Management of Budget Director Mick Mulvaney about reports that disagreement between agencies was delaying EPA groundwater cleanup recommendations for two types of PFAS called perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS). The guidelines have been under review for more than six months, noted the lawmakers.

"Given the significance of this issue, it is essential that [OMB's Office of Information and Regulatory Affairs] resolve any remaining interagency conflicts and conclude its review as soon as possible," Johnson and Peters wrote.

The senators asked Mulvaney for information including documents and communications related to the review that were exchanged between OMB and the Department of Defense, EPA, the Small Business Administration or NASA.

The Pentagon has been urging the administration to adopt weaker standards for cleaning up PFAS in groundwater, *The New York Times* reported earlier this month.

Also last week, a group of senators led by New Hampshire Democrats Jeanne Shaheen and Maggie Hassan wrote to EPA Administrator Andrew Wheeler and acting Defense Secretary Patrick Shanahan, urging them to "act in the best interests of affected communities and support efforts to develop groundwater and drinking water standards that will protect the public from the health hazards associated with PFAS contamination."

Schedule: The House hearing is Wednesday, March 27, at 10 a.m. in 2318 Rayburn.

Witnesses:

- Jennifer Orme-Zavaleta, principal deputy assistant EPA administrator for science for the Office of Research and Development and EPA science adviser.
- Alfredo Gomez, director, natural resources and environment, Government Accountability Office.
- Bernard Goldstein, professor emeritus and dean emeritus, University of Pittsburgh Graduate School of Public Health.
- Ivan Rusyn, professor, Department of Veterinary Integrative Biosciences, Texas A&M University; chairman, Interdisciplinary Faculty of Toxicology, Texas A&M; and director, Texas A&M Superfund Research Center.
- Julie Goodman, principal, Gradient.
- Wilma Subra, president, Subra Co., and technical adviser, Louisiana Environmental Action Network.

Schedule: The Senate hearing is Thursday, March 28, at 10 a.m. in 406 Dirksen.

Witnesses:

- Linda Birnbaum, director, National Institute of Environmental Health Sciences, National Institutes of Health, and director, National Toxicology Program, Department of Health and Human Services.
- Patrick Breyse, director, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry, Centers for Disease Control and Prevention.
- David Ross, assistant administrator, EPA Office of Water.
- Maureen Sullivan, deputy assistant secretary of Defense for environment, Department of Defense.

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## **Jefferson City News Tribune**

### **EPA critical of some elements of Missouri coal ash plan**

<http://www.newstribune.com/news/local/story/2019/mar/25/epa-critical-of-some-elements-of-missouri-coal-ash-plan/771394/>

#### **Associated Press**

**Posted: March 25, 2019**

JEFFERSON CITY, Mo. (AP) — Federal regulators said Missouri's plan to oversee the disposal of toxic waste from coal-fired power plants fails to adequately protect human health and the environment.

St. Louis Public Radio reported the Environmental Protection Agency said in a letter to the Missouri Department of Natural Resources that several provisions in Missouri's plan are weaker than the 2015 federal coal ash rule.

Some provisions allow the DNR to waive requirements for utility companies to clean up groundwater contamination or monitor groundwater for toxic chemicals if they can show that it doesn't affect drinking-water supplies or harm the environment.

Contamination has been detected near many coal ash ponds and landfills in Missouri.

DNR officials declined comment on the letter from the EPA.

Andy Knott of the Sierra Club's Beyond Coal campaign was critical of the DNR.

"I think that this is astonishing and that it's just further evidence that the DNR cares more about the demands of the coal utilities than the needs of Missourians for clean water," Knott said at a public hearing hosted Thursday by the DNR in Jefferson City.

Utility representatives say Missouri's proposed rule is just as protective of human health and the environment as the federal rule. Trey Davis, president of the Missouri Energy Development Association, said Congress didn't require state rules to be identical to federal rules.

"Nor did Congress say that each line in the rules must match federal requirements," Davis said.

A Washington University law clinic recently found excessive levels of arsenic, boron and other harmful chemicals near all ponds that are receiving coal ash waste. The law clinic represents the Labadie Environmental Organization, a group of residents pushing Ameren Missouri to remove coal ash from its ponds at the Labadie Energy Center in eastern Missouri.

"We drink well water, and many of us are scared of that the pollution they have found will end up hurting us and our neighbors," 12-year-old Ella Alt told DNR officials at Thursday's hearing. She attends school near the Labadie Energy Center.

DNR is accepting feedback on its plan until Thursday and expects that the state regulations will be

effective by Sept. 30.

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## **National Catholic Reporter**

### **Bishops say EPA plan to roll back pollution rule would harm the unborn**

<https://www.ncronline.org/news/environment/bishops-say-epa-plan-roll-back-pollution-rule-would-harm-unborn>

**Dennis Sadowski**

**Posted: March 25, 2019**

Unborn children would face greater health risks if the Environmental Protection Agency moves to rescind a rule regulating hazardous air pollutants emitted by power plants, said the chairmen of two U.S. Conference of Catholic Bishops' committees.

The bishops argued in a March 22 statement that the Mercury and Air Toxics Standards, or MATS, are needed to protect pregnant women as well.

"The proposed change to the Mercury and Air Toxics Standards rule is troubling since it is well-documented that pregnant mothers and their unborn children are the most sensitive to mercury pollution and its adverse health effects," said Archbishop Joseph Naumann of Kansas City, Kansas, chairman of the bishops' Committee on Pro-Life Activities.

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Added Bishop Frank Dewane of Venice, Florida, chairman of the Committee on Domestic Justice and Human Development, "The MATS rule reflects a proper respect for life of the human person and of God's creation — a great example of integral ecology called for in 'Laudato Si', " Pope Francis' encyclical on the environment.

The bishops' comments coincided with a March 18 letter sent by a bishops' conference official in response to the publication of the revised Environmental Protection Agency rule in the Federal Register Feb. 7.

The agency said it had concluded that it is not "appropriate and necessary" to regulate hazardous air pollutants from power plans because the cost of doing so "grossly outweighs" the benefits gained by doing so.

Anthony Picarello Jr., bishops' conference associate general secretary and general counsel, opposed the change in a detailed six-page letter, writing that the current standards "align strongly with key principles of Catholic social teaching."

He expressed concern that although the proposed rule change does not remove power plants from the list of regulated pollution sources under the Clean Air Act, it "greatly weakens legal justification for the rule and could ultimately cause great harm to human health and the environment."

Picarello said that church teaching "calls us to care of God's creation and protect the common good and the life and dignity of human persons, especially the poor and vulnerable, from conception until natural death."

"In short, by failing to take into account the full range of costs, especially those imposed on the most vulnerable, the proposed rule fails to respect the life and dignity of the human person," Picarello's letter said as it outlined a series of technical findings on the danger to health posed by mercury and other hazardous air pollutants.

The bishops' conference supported the standards when they were proposed by President Barack Obama's administration in 2011 because "even small amounts of these harmful pollutants in the environment are linked to health problems, particularly in children before and after birth, the poor and the elderly," Picarello's letter said, quoting from the bishop's original comment on MATS.

The 180-degree turn by the Environmental Protection Agency came in response to a 2015 U.S. Supreme Court decision that found the federal agency erred by not considering cost in determining that broader regulation of power plant air pollutants was necessary.

Writing for the 5-4 majority in the case, then-Associate Justice Antonin Scalia wrote that the Environmental Protection Agency must consider costs and that agency officials misinterpreted the Clean Air Act in determining costs were not part of the equation when introducing MATS.

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## **Patch.com**

### **Boulder Asks EPA To Withdraw Weakened Emissions Standards Plan**

<https://patch.com/colorado/boulder/boulder-asks-epa-withdraw-weakened-emissions-standards-plan>

**Mara Abbott**

**Posted: 10:04am, March 25, 2019**

BOULDER, CO -- The City of Boulder is demanding that the U.S. Environmental Protection Agency withdraw a proposal that would weaken federal standards limiting greenhouse gas emissions from new, modified and reconstructed coal-fired power plants. According to a City news release, Boulder has joined a coalition that includes 19 state district attorneys and several city governments in making the demand.

The coalition warns that finalizing the EPA's proposal could increase carbon dioxide pollution contributing to climate change by weakening current requirements that new power plants minimize their emissions.

The coalition's arguments against the proposal state that it is in violation of the Clean Air Act, that it ignores associated increased environmental harms, that the EPA has provided an inaccurate accounting of the costs of meeting the previous 2015 emissions standards, and that the EPA has not allowed appropriate opportunities for public comment.

"Boulder has signed on to this letter because, as the home of world-class climate scientists and concerned citizens, we agree emissions standards should not be weakened," said Senior Sustainability Policy Advisor Jonathan Koehn in a news release. "Climate change and the health effects of carbon pollution are urgent threats. We must not allow the EPA to move forward with this dangerous proposal, and we are proud to stand with this coalition."

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## **Science Times**

### **Scientists are Criticizing the Science of EPA's Clean Air Standards**

<https://www.sciencetimes.com/articles/19088/20190323/scientists-are-criticizing-the-science-of-the-epa-s-clean-air-standards.htm>

**Chardynne Joy H. Concio**

**Posted: 12:46pm, March 23, 2019**

Today's cleaner air is mostly thanks to science-based air pollution standards. Last week, science advisors to the US Environmental Protection Agency or EPA, drafted a letter criticizing the agency's use of science to set ambient air pollutant standards. This is the latest development in the EPA's process to update the health protective standards for particulate matter and ozone, the two air

pollutants most responsible for early death and sickness in the US. These developments risk unraveling the methodical process that, for decades, has effectively ensured we have science-based air pollution standards and steady reductions in air pollution.

The EPA must only consider the science that answers the question of what protects all people, including sensitive populations, such as the elderly, children, and those with lung and heart diseases. In assessing the science and the standards, the EPA relies on expert advice from the seven-member Clean Air Scientific Advisory Committee or CASAC, which has always been supplemented by a panel of additional experts on particular pollutants under review.

CASAC, with help of the review panel, will then make an official recommendation for what level of air pollution will protect public health with an adequate margin of safety. Together these three documents, and CASAC's recommendation, go to the EPA administrator who will ultimately set the standard. Thus, CASAC and the scientific assessment are essential because they inform this entire process and ensure that the EPA is basing policies on the best available science.

However, a letter from CASAC chair Louis Anthony Cox Jr released this month essentially trashes the EPA science assessment, inexplicably calling the lengthy, exhaustingly referenced document "unverifiable opinion" and claiming that it fails to follow the scientific method. Dr. Cox calls for a brand new approach, asking the agency to throw away the long used and scientifically backed weight-of-the-evidence framework in order to determine the health effects of air pollution.

On March 28, CASAC will hold its next meeting to discuss the draft letter and the committee's final recommendations on how EPA should finalize its science assessment. At this point, it is unclear what the committee will collectively decide, and whether they will have any consensus comments for the EPA. What is clear is that the EPA's process for updating air pollution standards is changing in ways that threaten the agency's very use of science to protect the public from air pollution.

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## **Ag Week**

### **E15 and waiver fight continues between ethanol and petroleum industries**

<https://www.agweek.com/business/agriculture/4588674-e15-and-waiver-fight-continues-between-ethanol-and-petroleum-industries>

**Michelle Rook**

**Posted: 5:30am, March 25, 2019**

YANKTON, S.D. — The Environmental Protection Agency advanced the long-awaited proposed rule for E15, the same week it also granted five new small refinery waivers from the Renewable Fuels Standard dating back to 2017.

For years, the ethanol industry has worked both through Congress and administratively to get the Reid vapor pressure law lifted and allow year-round sales of E15. The EPA action comes nearly a year after a bitter fight broke out when the petroleum industry attempted to get President Donald Trump to dismantle the Renewable Fuels Standard.

While the ethanol industry welcomed the E15 proposal, there is cautious optimism the rule-making can be completed before the summer driving season starts. Brian Jennings, CEO of the American Coalition for Ethanol, says the rule was delayed in part by the government shutdown, so he's skeptical it can be completed in time. "It would be a land-speed record if they get this complicated rulemaking done in less than 90 days and that's about all we have to June 1," he says.

Another holdup is that EPA is including controversial reform of the use of Renewable Identification Numbers in the rule even though ethanol officials want it separated.

Lisa Richardson, South Dakota Corn Growers Association Executive Director says while reform is

needed, they would rather have it separated from the E15 rule. "The deal that was cut (with the petroleum industry) was giving some more transparent RIN markets for those in the refining industry that have to purchase it," she says.

Despite that, Secretary of Agriculture Sonny Perdue says new EPA head Andrew Wheeler has assured him they'll make the deadline. "He had been in some confirmation hearings and had a confirmation vote. It's amazing how those things work, but he found a way to do that, so right now, it's on," he says.

Perdue added that Wheeler has stated if the rule isn't done, there is a plan B where EPA will not enforce the E15 rule. "I'm hoping he'll go ahead and say that on the record and send a signal to the people that they can proceed with E15 through the summer this year," Perdue says.

Other industry officials remain optimistic E15 will come in time to help the ethanol facilities that are struggling. Tim Lust, National Sorghum Growers Association CEO says, "Some of our plants have slowed down a little bit on production and backed off because of the low margins, so E15 would be critical for us."

The petroleum industry is expected to challenge the lifting of the Reid vapor pressure rule. "There is some concern out there in the industry that it'll be litigated from those that don't use ethanol and so making sure it's done right is as critically important as getting it done," Richardson says.

Meanwhile, the EPA continues to grant small refinery waivers from the Renewable Fuels Standard. On May 14, the agency announced approval of five more 2017 Small Refiner Exemptions to the Renewable Fuels Standard and noted that two more petitions have been received for 2018 exemptions. To date, 39 exemptions have been granted. Jennings says so far, EPA hasn't reallocated any of those gallons and if the agency doesn't, it may negate any gains from E15. "The net effect isn't a benefit for corn farmers in terms of grinding more corn to make ethanol or ethanol producers," he says.

Geoff Cooper, president and CEO of the Renewable Fuels Association, says the waivers are a slap in the face for the ethanol industry. "This is EPA kicking the industry when it's already down. We're already dealing with the consequences of small refinery exemptions that were given out this time last year. We know what that's done to our market, it's destroyed demand throughout the year and we're seeing some of the lowest margins, worst conditions in the history of this industry," he says.

The new waivers, according to Cooper, wiped away another 366 million gallons of renewable fuels blending obligations, which is the equivalent to the output of four large ethanol plants.

The National Corn Growers Association has also been outraged by the waivers. The group's president, Minden, Iowa, farmer Kevin Ross says, "That on top of the 2.25 billion gallons that we already lost due to waivers, that's really, in my mind, an unacceptable situation."

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## **CNN Business**

### **More bad news for coal: Wind and solar are getting cheaper**

<https://www.cnn.com/2019/03/25/business/coal-solar-wind-renewable-energy/index.html>

**Matt Egan**

**Posted: 8:51am, March 25, 2019**

**New York (CNN Business)** The simple laws of economics threaten to doom America's remaining coal power plants.

[Wind and solar costs have plunged](#) so rapidly that 74% of the US coal fleet could be phased out for renewable energy -- and still save customers money, according to a [report](#) released on Monday by



Energy Innovation, a nonpartisan think tank.

That figure of at-risk coal plants in the United States rises to 86% by 2025 as solar and wind costs continue to plunge.

The research demonstrates how it's increasingly more expensive to operate existing coal plants than build clean energy alternatives.

"US coal plants are in more danger than ever before," Mike O'Boyle, director of electricity policy at Energy Innovation, told CNN Business. "Nearly three-quarters of US coal plants are already 'zombie coal,' or the walking dead."

That's despite President Donald Trump's promise to revive the beleaguered coal industry. Trump declared the end of the "war on coal" and slashed regulations that clamped down on the emissions from coal-fired power plants.

Late last year, the administration announced plans to [reverse an Obama-era coal emissions rule](#) to make it easier to open new coal plants. Trump even appointed Andrew Wheeler, a [former coal lobbyist](#), to lead the EPA.

"Trump administration efforts to cut environmental regulations are too little, too late to save coal," O'Boyle said.

### **Rust Belt coal plants under siege**

The Energy Innovation report found that in 2018, 211 gigawatts of existing US coal capacity -- or 74% of America's fleet -- was at risk from local wind or solar that could more cheaply churn out just as much electricity.

North Carolina, Florida, Georgia and Texas are the US states that have the greatest amount of coal plants at risk from local solar and wind, the analysis found. Energy Innovation defined local as within 35 miles.

### **Coal's biggest threat is now economics, not regulations."**

By 2025, Midwestern states including Indiana, Michigan, Ohio and Wisconsin are expected to have high amounts of coal capacity under pressure from renewable energy.

Of course, just because it may be economically feasible to shut down a coal plant and replace it with wind or solar, doesn't mean it will happen right away. State regulators must sign off on such decisions. And many power plants will decide to pass the extra costs on to customers.

Moreover, coal is still a major employer in parts of Appalachia, making any shutdown potentially damaging to the local economy.

### **Coal has been dethroned**

Coal was the longtime king of the power industry before it encountered fierce competition last decade from natural gas. Not only is natural gas a cleaner burning fossil fuel, but it's in abundance in the United States thanks to the shale revolution. In 2016, natural gas surpassed coal for the first time as America's leading power source.

Meanwhile, the share of total power generation from coal-fired power plants plunged from 48% in 2008 to just 28% last year, according to government statistics.

And the rise of renewables means that the economics have once again swung against coal. Aided by a surge of investment in clean energy, solar prices have plummeted 90% since 2009 -- and they're projected to continue declining, according to Energy Innovation.

Against that backdrop, renewable energy is projected to be the fastest-growing source of US electricity generation for at least the next two years, according to a [January report](#) published by the US Energy Information Administration.

Utility-scale solar power is expected to increase by 10% in 2019 alone, while wind power is expected to vault ahead of hydropower for the first time, the EIA said.

"Coal's biggest threat is now economics, not regulations," O'Boyle said.

## **New Mexico pledges to go carbon free**

Another challenge for coal: American households and businesses are increasingly clamoring for clean energy as they worry about climate change.

Households and businesses are installing their own solar panels. Small-scale solar generating capacity is expected to grow by 44% over the next two years, according to the EIA.

Pressured by voters, US states are adopting ambitious clean energy targets -- and they're framing them as job creators.

Last week, New Mexico Governor Michelle Lujan Grisham signed into law a [bold plan that aims to source half the state's power](#) from renewable energy by 2030. And by 2045, New Mexico plans to be 100% carbon-free.

Future generations "will benefit from both a cleaner environment and a more robust energy economy with exciting career and job opportunities," Lujan Grisham said in a statement.

California and Hawaii also recently passed 100% clean energy targets.

Some power companies are moving rapidly to adjust to this new environment.

Xcel Energy ([XEL](#)), a Minneapolis-based power company that serves western and Midwestern states, recently pledged to deliver 100% carbon-free electricity by 2050. The plan calls for doubling Xcel's wind power while slashing its dependence on coal.

All signs point to more and more power companies waking up to the new clean energy reality.

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## **Des Moines Register**

### **Trump's biofuel promises to Iowa farmers ring hollow**

<https://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2019/03/25/trump-biofuel-promises-farmers-ring-hollow-ethanol-e-15-oil-refineries-exemptions-epa-agriculture/3270493002/>

**Tim Gannon**

**Posted: 2:49pm, March 25, 2019**

When the Trump administration unveiled formal plans earlier this month to lift an archaic ban on sales of 15-percent ethanol blends (E-15) during the summer, many Iowans cheered. Rural leaders and farm families have been calling for the change for years, and time is running out to get it done by this summer's driving season. With the regulation lifted, consumers would be able to select the blend they prefer, and farmers would have a more competitive market for energy-rich biofuel feedstocks, including Iowa corn.

It's not the first time we've heard big promises from Trump's team at the Environmental Protection Agency (EPA), and given recent experience, one would expect Iowa Republicans to be a little more cautious about counting their chickens.

As it turns out, the 175-page draft regulation proposed by EPA Administrator Andrew Wheeler also includes a host of goodies for petroleum refineries seeking to meddle with the federal credits that are meant to boost investment in renewable energy. Truck stop operators were among the first to point out that some elements of the EPA's proposal could discourage fuel marketers from offering biofuel blends, "so that a small subset of refiners can spend as little as possible to meet their obligations."

Chances are still good that we'll finally get year-round E15 over the finish line, but it was a strong reminder that we can't take anything for granted with this administration.

In fact, just two days later, the same EPA quietly destroyed demand for about 120 million bushels of corn. Five more oil refineries – the agency won't say which ones – secured special exemptions from the EPA, allowing them to replace ethanol in America's fuel mix with more fossil fuel.

As it turns out, the EPA secretly changed its own rules, so regulators could offer "hardship" exemptions to oil refineries, even if Department of Energy could not identify any financial justification. In total, the agency has now granted enough handouts to destroy 2.6 billion gallons of biofuel demand over two years – little wonder that American ethanol consumption fell in 2018 for the first time in 20 years.

Those who backed Wheeler to take over the agency shouldn't be surprised. Discussing her vote against the nomination, Illinois Sen. Tammy Duckworth warned that Wheeler would continue to "abuse policies meant to assist small refineries to help Big Oil companies like Exxon and Chevron – that have billion dollar profits – at the expense of the American farmer." Sure enough, the EPA proved her right just one month later.

After so many setbacks, it's hard for farm families to keep hoping for something different from Washington. Farm incomes are down by 44 percent over the past six years. Many younger farmers are giving up, while more established farms are sinking under deeper and deeper debt.

They deserve better, and so do the rural communities where biofuel production keeps manufacturing alive in the heartland. Biofuels – including ethanol and biodiesel – are the cornerstone of a green energy revolution happening right here in Iowa. Every gallon of ethanol slashes carbon emissions by 43 percent, according to federal data.

Republicans need to pivot away from covering for the White House and start holding this administration accountable for its promises to farm families. And Democrats, converging on Iowa in pursuit of high office, should take the opportunity to demonstrate that they are ready to offer something different.

*Tim Gannon is a farmer, former USDA official and 2018 Democratic candidate for Iowa secretary of agriculture.*

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**OilPrice.com**

**Good News and Bad News For The Ethanol Industry**

<https://oilprice.com/Alternative-Energy/Biofuels/Good-News-And-Bad-News-For-The-Ethanol-Industry.html>

**Robert Rapier**

**Posted: 12:00pm, March 25, 2019**

Last week the ethanol industry cheered when the EPA proposed a rule that would allow 15% ethanol blends to be sold year-round. But by the end of the week they were complaining as the EPA granted more waivers to refiners seeking exemption from ethanol-blending requirements.

Ethanol supporters cheered last summer when Environmental Protection Agency (EPA) Administrator Scott Pruitt resigned. As Oklahoma's Attorney General, Pruitt had sued the EPA over the Renewable Fuel Standard (RFS). As EPA Administrator, Pruitt seemed determined to weaken the RFS.

Pruitt angered the ethanol industry by liberally granting waivers to some refiners that sought relief from their ethanol blending quotas. Refiners save money with these waivers, but they also lower the value of the credits refiners must pay to comply with the mandate. That means the waivers weaken the RFS, so they were an irritant for the ethanol industry and its supporters.

Following Pruitt's departure, Andrew Wheeler, who was Pruitt's second-in-command, took over as EPA Administrator.

Last week the agency unveiled a proposed rule to allow year-round sales of 15% ethanol fuel blends (E15). Year-round E15 sales had been restricted because of the potential to form smog from evaporative emissions.

The ethanol industry had long sought to sell E15 year-round and cheered the news. The new rule would also establish trading restrictions to curb speculation in renewable identification numbers (RINs). Speculation in RINs — which are used to enforce the ethanol mandate — has been blamed for driving ethanol prices higher at times.

But then Wheeler irritated the ethanol industry just a few days after announcing the E15 rule change, when he granted five new RFS waivers to refiners. Ethanol supporters who cheered the E15 change complained that the waivers let refiners off the hook.

Neil Koehler, CEO of Pacific Ethanol, and chairman of the Renewable Fuels Association stated:

*If on the one hand you are allowing this additional market access by removing an arbitrary barrier, and on the other hand you're destroying demand through inappropriate granting of a mass number of small refinery exemptions that arguably will interfere with the growth of the higher blends. It's important that both get addressed."*

It seems to me that the RFS quotas are at least as arbitrary as the 10% barrier was, so what the ethanol industry really seeks is that refiners are forced to blend at least 10% but allowed to blend more. Refiners, on the other hand, would like to be able to blend any amount they choose based on what economics dictate, even if that means zero ethanol blended.

Iowa Senator Chuck Grassley complained [on Twitter](#) that these five "ridiculous RFS waivers" would translate into "nearly a billion bushels of corn demand lost."

Senator Grassley and other ethanol proponents are angry that EPA is allowing the waivers to reduce the overall blending requirement to below the RFS mandate. They want the RFS requirements to be raised to make up for previous losses due to the waivers.

In following Pruitt, Andrew Wheeler's EPA seems to have succeeded in angering both the oil industry and the ethanol industry, neither of which is getting everything they want.

By Robert Rapier

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## **The Washington Post**

### **Groups: EPA has dragged heels on oil dispersant rules**

[https://www.washingtonpost.com/national/energy-environment/groups-epa-has-dragged-heels-on-oil-dispersant-rules/2019/03/25/a2abe41c-4f30-11e9-bdb7-44f948cc0605\\_story.html?utm\\_term=.7eaa9c4b2d89](https://www.washingtonpost.com/national/energy-environment/groups-epa-has-dragged-heels-on-oil-dispersant-rules/2019/03/25/a2abe41c-4f30-11e9-bdb7-44f948cc0605_story.html?utm_term=.7eaa9c4b2d89)

**Janet McCannaughey (AP)**

**Posted: 3:03pm, March 25, 2019**

NEW ORLEANS — Environmental groups and women from Alaska and Louisiana say the Environmental Protection Agency has dragged its feet on issuing rules for oil spill dispersants, and they're ready to sue to demand them.

They say dispersants used after the Exxon Valdez and BP oil spills were worse than oil alone. But they say that, nearly four years after taking public comment about dispersants, the agency hasn't acted.

A letter sent Monday to EPA Administrator Andrew Wheeler says they'll sue unless the EPA acts within 60 days. The letter is a legally required step before suing under the Clean Water Act.

The University of California-Berkeley Environmental Law Clinic represents Kindra Arnesen of Buras (BYOO-ruhs), Louisiana; Rosemary Ahtuanguaruk (ah-TOON-gah-rook) of Nuiqsut (noo-IK-sut), Alaska, and the environmental groups.

The EPA did not immediately respond to a request for comment.

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## **Bloomberg Environment**

### **Chemical Swirls Strand Dozens of Ships Near Houston Disaster**

<https://news.bloombergenvironment.com/environment-and-energy/chemical-swirls-strand-dozens-of-ships-near-houston-disaster>

**Joe Carroll & Rachel Adams-Heard**

**Posted: 2:14pm, March 25, 2019**

- Worst Texas chemical calamity in 14 years enters second week
- ‘Scariest I’ve seen it,’ resident suffering symptoms says

More than 60 ships are stranded near Houston as the region’s most important commercial waterway remained shut because of cancer-causing benzene wafting off the region’s worst chemical disaster in more than a decade.

The [Houston Ship Channel](#) will be cut off from the Gulf of Mexico until the U.S. Coast Guard verifies the benzene has dissipated and oily runoff has been collected or dispersed. A nearby waterway, the San Jacinto River, reopened on an intermittent basis but that’s no relief for oil refiners, chemical makers, grain exporters and other industries upstream of the channel closure.

More than 30 ships have been halted on either side of the closure as the unfolding Intercontinental Terminals Co. calamity enters its second week, according to Coast Guard figures. Royal Dutch Shell Plc slowed fuel production at its Houston-area refinery because of the disruption to waterborne crude deliveries, Reuters reported.

ITC achieved a significant milestone Sunday in emptying more than half a million gallons of toxic liquid from an onshore tank wrecked in the four-day blaze that erupted March 17 and sent a mile-high plume of black smoke skyward. As of Monday morning, five tanks had been emptied and two more were targeted for draining.

The Coast Guard said a test vessel successfully navigated the channel’s 2-mile-long no-go zone and another test sailing was planned for Monday. The tests are used to determine whether ship traffic can resume without disrupting efforts to skim gasoline ingredients that spilled into the waterway.

Coast Guard Capt. Kevin Oditt declined on Monday morning to estimate when the channel will reopen. But when it does, it will initially be restricted to daylight traffic, he said.

The channel, which isn’t a source of drinking water for Houston or its suburbs, connects the region’s dense warren of refineries, chemical processors and fertilizer warehouses to the rest of the world via Galveston Bay and the Gulf of Mexico. Dozens of major companies rely on the waterway to receive crude oil and other raw materials, and to send out finished products such as fuel and livestock feed.

ITC crews finally drained about 13,000 barrels (546,000 gallons) of a benzene-laced refining byproduct called pygas from a charred tank on Sunday after two earlier unsuccessful attempts, said

Brent Weber, the company's incident commander.

Tank 80-7

By Monday, that tank -- numbered 80-7 on the facility map -- had been completely drained, a significant achievement for ITC because it allows crews access to other damaged tanks still holding dangerous chemicals. A 2-foot (0.6-meter) deep pool of chemicals on the ground around the damaged tanks was reduced to 2 inches by Sunday morning.

Benzene levels in the air over suburban Deer Park and neighboring communities remained below harmful levels, said Adam Adams of the U.S. Environmental Protection Agency.

Trust 'Not There'

That was a far cry from late last week, when readings of the pollutant linked to leukemia and other forms of cancer shut entire towns, triggered panic and sent 1,000 people to a pop-up medical clinic.

Residents remain on edge, wondering what's next and when normal life will return. For many Houstonians, it's the worst industrial disaster since the 2005 explosion at BP Plc's Texas City refinery that killed 15.

### **The wreckage at the BP facility in Texas City in March 2005.**

Photographer: William Philpott/AFP via Getty Images

"There's more tanks in there. Is it going to reignite? It's very uncertain," said Mercy Reyna, 50, who's been suffering from headaches, eye discomfort and chest tightness. "The trust is not there. We feel like we're not being told the truth of what's going on."

Texas Attorney General Ken Paxton filed a lawsuit accusing ITC of violating clean-air laws. Meanwhile, the U.S. Chemical Safety Board and the Occupational Safety and Health Administration are investigating the disaster.

Siphoning Gasoline

Dan Lowe, 52, sought treatment for eye and throat irritation. After ruling out strep throat and influenza, his doctor ordered blood tests to check for signs of benzene exposure. Lowe, who passed through Deer Park several times last week while driving for Uber, is awaiting the results.

"We used to siphon gasoline as teenagers and it felt like that," he said of the pain in his throat. "It was stupid, but you don't forget that taste."

County officials said they have no plans for now to stand up an ad-hoc medical clinic that was open for three days in Deer Park. Anyone with symptoms was urged to contact their doctor or call 911.

"I've been here most of my adult life, and this is the scariest I've seen it."

—With assistance from Sheela Tobben, Robert Tuttle, Jim Efstathiou Jr. and Kevin Crowley.

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### **Inside EPA**

#### **Environmentalists sue EPA to force CWA spill rule**

<https://insideepa.com/daily-feed/environmentalists-sue-epa-force-cwa-spill-rule>



## Staff

**Posted: March 25, 2019**

Environmentalists are suing EPA over its failure to issue what they say is a mandated Clean Water Act (CWA) rule to prevent hazardous-waste spills in “worst-case” situations, after the agency reversed course on a 2016 settlement where it promised to consider a new rulemaking and instead proposed no action.

[The March 21 complaint](#) says the water law required EPA to issue a spill rule by 1992, and points to recent chemical spills caused by severe storms and flooding -- disasters the plaintiffs say are linked to climate change -- as demonstrating the urgent need for such a policy.

“Climate change, by causing sea-level rise and increasing the frequency and severity of weather disasters, is increasing the risk of environmental and public-health harms from chemical spills,” reads the complaint, which was filed by Natural Resources Defense Council, Environmental Justice Health Alliance for Chemical Policy Reform (EJHA) and Clean Water Action in the U.S. District Court for the Southern District of New York.

Under amendments to the CWA enacted in 1990, EPA is required to craft rules that require facilities that use or store certain chemicals and hazardous substances “to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance.” The plaintiffs say the 1990 amendments gave the agency just two years to issue those rules.

However, the agency has never taken steps to craft or issue the spill policy, even after it agreed to consider doing so in a 2016 settlement that resolved the case *EJHA et al. v. EPA*. Instead the Trump EPA last year [proposed to take no action](#) arguing that current policies already cover all the requirements a CWA spill policy would include.

But the plaintiffs in the new suit say that move defies both Congress’ clear intent in the 1990 CWA update and a pattern of recent storms and floods that they argue shows the need for better spill prevention.

The groups cite “devastating and historic flooding” happening in the Midwest as well as damage done in the Southeast by Hurricane Florence in 2018 and the pattern of three 500-year floods in Houston, TX, over the span of three years, culminating with Hurricane Harvey in 2017. Each disaster included spills from chemical facilities in the affected areas, they say.

“The need for regulations to protect communities from the risk of chemical spills during severe weather has only increased since Congress mandated worst-case spill regulations in 1990,” the complaint says.

The suit follows [states’ call for a new spill rule](#), in comments on EPA’s release of data in support of its no-action proposal where officials argued that the data “most certainly does not support EPA’s position that such a regulatory effort is unnecessary.”

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## Sierra Club

**Is the EPA Helping to Poison Bees?**

<https://www.sierraclub.org/sierra/bees-epa-emergency-exemption-neonicotinoid-sulfoxaflo-pesticide-pollinator>

**Jacob Shea**

**Posted: March 23, 2019**

The EPA has been allowing growers to spray pesticides that are toxic to honeybees and other pollinators using a loophole that bypasses standard environmental review and public comment,

according to a report by the Center for Biological Diversity (CBD), an environmental legal advocacy group.

The CBD analyzed EPA records and found 78 instances since 2012 when the agency permitted sulfoxaflor, a compound that the EPA's [own research found highly toxic to pollinators](#), to be used on crops spanning an area of over 17.5 million acres in 18 states. The EPA justified this, says the CBD, by using a loophole in its own regulations that allows for "emergency exemptions" in cases involving "an urgent, nonroutine situation that requires the use of a pesticide(s)."

Sulfoxaflor was initially developed by Dow Chemical in 2010 and was marketed as a safer alternative to neonicotinoids, a widely used class of pesticide. Neonicotinoids had become a prime suspect in colony collapse disorder, to the point where they had been banned in some countries for their toxicity to honeybees.

Sulfoxaflor was approved by the EPA in 2013, but in 2015, the [9th Circuit Court reversed that approval](#) after a lawsuit brought by the American Beekeeping Association and other bee-related organizations argued that the approval was made using flawed and limited data, and that sulfoxaflor showed signs of being dangerous to bees. Dow was allowed to amend its application for approval, which it did. The new application said, among other things, that sulfoxaflor could be applied while crops weren't in bloom to avoid pollinators, and only while wind speed was sufficiently low to keep the pesticide from drifting into areas foraged by bees. In 2016, [the EPA approved its use](#) under those circumstances.

But growers can still use sulfoxaflor in ways that sidestep those restrictions. The EPA's Section 18 allows for something called "emergency exemptions" for pesticides. Section 18 is meant to control unexpected outbreaks of pests that are resistant to approved methods, like an unusual boom in invasive bugs or a fungus. But according to the Center for Biological Diversity report, the EPA has granted emergency exemptions for sulfoxaflor for use against pests that have been plaguing crops for years, like aphids and tarnished plant bugs.

Permitting routine exemptions, says the CBD report, allows pesticide manufacturers to bypass the lengthy approval process put in place to safeguard public and environmental health. "Spraying 16 million acres of bee-attractive crops with a bee-killing pesticide in a time of global insect decline is beyond the pale, even for the Trump administration," says Nathan Donley, a senior scientist at CBD in a statement. "The EPA is routinely misusing the 'emergency' process to get sulfoxaflor approved because it's too toxic to make it through normal pesticide reviews." Last fall, [the EPA's own research](#) found that while the "emergency exemption process provides flexibility to growers and other pesticide applicators during emergency situations," it was less good at measuring "how well the emergency exemption process maintains human health and environmental safeguards."

And the use of sulfoxaflor seems to be on the rise. Last year, Dow entered an application to the EPA to expand sulfoxaflor's emergency exemption from cotton and sorghum to avocados, rice, tree farms, ornamental plants, and other crops.

Some disagree with the CBD's assessment that the EPA's emergency exemption program is too permissive for sulfoxaflor. Professor David Kerns, the Statewide Integrated Pest Management Coordinator for Texas A&M University, has worked extensively with cotton and sorghum and has been involved in Section 18 registrations for sulfoxaflor. When pesticides like [organophosphates](#) were delisted, says Kerns, growers were left with few options for controlling increasingly resistant outbreaks of tarnished plant bugs in cotton and sugar aphids in sorghum. "The emergency came with tarnished plant bugs because resistance was so widespread to other products that we had nothing else," says Kerns. "But since we've gotten the Section 18, and since you've seen it used for several years in a row now, the benefits of that product in the system are paying off." Kerns says that sulfoxaflor's effectiveness has actually reduced the overall amount of chemicals sprayed—in that regard, he said, it's "an environmental win" in cotton.

Pollinator warnings [on products containing sulfoxaflor](#) tell growers to avoid spraying when pollinators are present, though no regulatory mechanism ensures that sprayers follow such warnings. "The vast majority of cotton and sorghum farmers are using sulfoxaflor responsibly," says Kerns. "If sulfoxaflor use was shown to be causing bee kills and hive decline, then we would no longer support the Section 18."

"Once the product is dry, its toxicity to bees is greatly reduced. It is highly toxic to bees as wet

droplets,” he added. “The goal is to not treat fields with bees actively foraging.”

According to an Entomological Society of America [study](#), sulfoxaflor shows little negative impacts on other beneficial insects—in this case, predatory insects that eat aphid pests in soybeans. But a 2018 [study](#) in *Nature* found that bumblebee colonies in a field treated with sulfoxaflor reproduced in far lower numbers than colonies in a field that hadn’t been sprayed.

· “There’s lots of good reasons for people to try to reach for the pesticide last,” says Johnson.

The relationship between farmers and pollinators raises some underlying challenges built deeply into the industrial farming system. Large monocultures have created real challenges for bees, because without a diverse range of plants and nutrients, they are more susceptible to diseases and parasitism. Some states have pollinator protection plans that seek to further minimize the risks that pesticides create, but how pesticides impact native pollinators like bumblebees remain difficult to quantify, since they often live alone, rather than in hives, and lack beekeepers to monitor their well-being.

Pesticides can also make bee problems much worse. “If you’re exposed to pesticides and you have poor nutrition, it’s much much worse than just having poor nutrition, or just having pesticides alone,” says James Nieh, an entomologist at UC San Diego. “There’s this multiplicative factor called a ‘synergy’ that occurs.” But often, other chemicals wear on bee health in unforeseen ways. Glyphosate, the primary ingredient in Roundup, appears to damage bee microbiomes. And various [fungicides like Signum and Rovral have been shown to have negative synergistic effects on honeybees](#) and wild bees, inhibiting their ability to digest food and flush toxins out of their cells.

Reed Johnson, an entomologist who studies pesticides and bees at Ohio State University, sees some merits of emergency exemptions—but only if they’re used for actual emergencies. “An emergency exemption is meant for some emerging problem where the agricultural sector needs a solution sooner than the wheels of the registration process can deliver that solution,” says Johnson, who once helped beekeepers apply for Section 18. In that case, they wanted to spray bee colonies for varroa mite outbreaks with [Hopguard](#), a potassium salt bi-product of beer production, that wouldn’t pass the normal Section 3 approval process in time to be effective. In this case, Johnson says, Section 18 was invaluable.

Emergency is in the eye of the beholder. Cotton—which is not a food crop—consumes 14 percent of all insecticides and makes a frequent appearance on the EPA’s emergency exemption list for sulfoxaflor. The more pesticides like sulfoxaflor and neonicotinoids are used, the more likely it is that target pests [will eventually become resistant](#). [A study of 1,000 farms in France](#) published in the peer-reviewed journal *Nature Plants* found that slashing pesticide use would not bring drops in crop production. The UN Human Rights Council [has disputed the theory](#) maintained by chemical companies that without pesticide inputs, a booming global population would go unfed.

Ideally, pesticides would be a last resort in a greater pest control strategy. “Integrated pest management (IPM) is, in my opinion, the crowning jewel of the field of entomology,” says Johnson. Farms who adopt IPM use a range of management tools—things like biological controls, hardier crop strains, and added habitat for beneficial insects—to keep pests below the threshold of causing farmers economic damage. That doesn’t necessarily mean the end of chemical inputs. Rather, when the other controls fail to stem serious losses, pesticides can be a final resort.

Kerns agrees that protecting pollinators should be a high priority for growers. “My colleagues and I all stress adopting IPM practices which are principally built around preventing pest problems using a variety of cultural and biological factors, using pesticides only when needed, and if using pesticides, to choose one that pose minimal risk to nontarget insects, the environment and human health,” says Kerns. “Unfortunately, there are times when pesticides are necessary.”

But many cotton and sorghum growers in his area already have adopted IPM, if for none other than one simple reason: economics. “If you spray all the time,” says Kerns, “you’re going to go broke.”

“There’s lots of good reasons for people to try to reach for the pesticide last,” says Johnson. “It will delay resistance to these pesticides. It will reduce the ecological harm that the pesticide use will inevitably have. And in many cases, it’s cheaper too.”

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## **Bloomberg Environment**

### **Duke University Must Return \$112.5 Million in NIH Grant Money**

<https://news.bloombergenvironment.com/environment-and-energy/duke-university-must-return-112-5-million-in-nih-grant-money-1>

**Jeannie Baumann**

**Posted: 12:06pm, March 25, 2019**

- Whistleblower brought misconduct to light
- Fraudulent scientific data rare in False Claims cases

Duke University will pay \$112.5 million to settle claims that biomedical researchers at the school manipulated research data to apply for federal grants, an attorney for the whistleblower in the case said March 25.

The latest settlement puts to bed one of two research scandals involving the Durham, N.C., campus over the past decade, prompting the National Institutes of Health to impose additional oversight over Duke's management of its research awards.

False Claims Act violations are a major compliance danger zone for universities in general, but it's rare that these cases involve tampering with scientific data. FCA allegations involving universities usually arise over [improper billing](#) to the federal government for salaries or other administrative matters.

"This case was, simply put, one of the largest scientific fraud cases in history. The impact on the published scientific record, federal grant funding, and on individual researchers was unprecedented," the whistleblower's attorney, John R. Thomas Jr., said. Thomas, a partner with Healy Hafemann Magee, is the brother of whistleblower Joseph M. Thomas.

Joseph M. Thomas sued Duke in 2013 alleging his former colleague, Erin N. Potts-Kant, her supervisor, William Michael Foster, and the university falsified data in applying for research grants. They received more than 60 research grants, totaling \$200 million in funding, from the National Institutes of Health and the Environmental Protection Agency. Potts-Kant was fired two months before the complaint was filed, and Foster has since retired.

Duke University President Vincent E. Price vowed to improve the school's grant processes, including by establishing a panel on research integrity.

In fiscal 2018, Duke received 844 research grant awards totaling \$475 million in NIH funding, making it the eighth highest grant recipient in the U.S.

"The fact that fraud of this magnitude could occur at an institution as well-regarded as Duke University illustrates the work that remains to be done on behalf of research integrity across the country," John Thomas said. "It is incumbent upon research institutions to ensure they are being faithful stewards of taxpayer dollars, and it is equally incumbent upon researchers to police their own and report fraud when they see it."

This case demonstrates that individuals who learn of fraud against the U.S. government can make a difference through the qui tam provisions of the False Claims Act, Thomas said. Joseph Thomas is in line to receive 30 percent of the settlement.

#### **Duke Response**

Price said he expects Duke researchers to always adhere to the highest standards of integrity.

“Virtually all of them do that with great dedication,” Price said in a March 25 statement. “When individuals fail to uphold those standards, and those who are aware of possible wrongdoing fail to report it, as happened in this case, we must accept responsibility, acknowledge that our processes for identifying and preventing misconduct did not work, and take steps to improve.”

In the earlier case, the Health and Human Services Office of Research Integrity [concluded](#) former Duke cancer researcher Anil Potti committed research misconduct, which the federal government [defines](#) as falsification or fabrication of data, or plagiarism. Most cases of misconduct go through the ORI administrative process, which can result in a researcher either being barred from entering into any federal contracts or requiring tight supervision. But the ORI must promptly refer any criminal or civil fraud allegations to the Justice Department, the HHS Office of Inspector General, or another appropriate investigative body.

An unrelated case that also prompted a large settlement involved Partners HealthCare System in Boston. It had [to pay \\$10 million](#) in 2017 to resolve allegations that three scientists in a stem cell laboratory knew or should have known that the lab promulgated and relied upon manipulated and falsified information to obtain NIH grant funding.

#### Additional Steps by Duke

In addition to paying up, the university is implementing additional steps to improve management of its research integrity and quality, Price said. It’s forming a new advisory panel on research integrity, to be headed by Ann M. Arving, former vice provost and dean of research at Stanford University. The advisory panel will also contain other outside voices, including former university research executives from Caltech and Rockefeller universities.

Duke is also changing its leadership structure in research to “provide clear and consistent policy guidance, oversight and accountability for all research at Duke University and Duke Health,” Price said. It will form an executive oversight committee to oversee the ongoing implementation of Duke’s research excellence initiative, he said.

The case is [United States ex rel. Thomas v. Duke Univ.](#), M.D.N.C., 1:17-cv-00276-CCE-JLW.

(Updated with additional details.)

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## E&E News

### Duke agrees to fine over EPA-funded research allegations

<https://www.eenews.net/eenewspm/2019/03/25/stories/1060128197>

Sean Reilly

Posted: March 25, 2019

Duke University has agreed to pay \$112.5 million and overhaul oversight of its research activities under a False Claims Act settlement announced today by the Justice Department and the elite North Carolina school.

The deal will resolve allegations that the university submitted applications and progress reports containing "falsified research" on projects funded by EPA and the National Institutes of Health, according to a DOJ release.

The settlement "sends a strong message that fraud and dishonesty will not be tolerated in the

research funding process," Mary Walker, acting head of EPA's Atlanta-based Region 4 office, said in the release. The region includes North Carolina.

Under the agreement, Duke admits no liability for the alleged fraud, which reportedly occurred from 2006 to 2018. In a statement, however, Duke President Vincent Price said the school expects its researchers "to adhere always to the highest standards of integrity." When they fail to meet those standards, Price said, "we must accept responsibility, acknowledge that our processes for identifying and preventing misconduct did not work, and take steps to improve."

U.S. District Judge Catherine Eagles of the Middle District of North Carolina accepted the settlement this morning, according to the Justice Department. The case originated in a 2013 [lawsuit](#) brought by Joseph Thomas, a former Duke employee who claimed whistleblower status. Thomas will receive \$33.75 million, or about 30 percent of the total payout.

At the Government Accountability Project, an advocacy group that represents whistleblowers, CEO Louis Clark was not immediately aware of a larger False Claims Act settlement involving a nonprofit academic institution. "This is top of the charts," Clark said in an interview this afternoon. His organization was not involved in the case.

According to the government, Duke "knowingly submitted" claims to NIH and EPA containing false or fabricated statements or data for 30 grants, leading the two agencies "to pay out grants funds they otherwise would not have," according to the release.

The research in question involved mice and was conducted by a Duke research technician at the university's Airway Physiology Laboratory. In its statement, the school said the technician was fired and eventually pleaded guilty to two counts of forgery after she was discovered to have embezzled federal grant money.

The university then launched a formal scientific misconduct investigation into her experiments, which involved measuring the lung function of laboratory mice but were not connected to human subjects or clinical research.

"Following a three-year review of more than 50 potentially compromised research grants, Duke concluded that the technician had falsified or fabricated data that had been included in grant and payment requests submitted to the NIH and other agencies over the period of her employment," the statement said. The school also retracted scientific papers that relied on the data.

Among other steps required by the settlement, Duke has created an Advisory Panel on Research Integrity and Excellence that will provide recommendations to Price by the end of June on steps to improve research administration. The \$112.5 million payment to the government includes "both reimbursement for grants received as a result of the falsified and fabricated data and associated penalties," according to the school.

As of this afternoon, the actual settlement had not been made public. A Justice Department spokesperson did not immediately respond to a question asking whether it will be released. EPA press aides also did not immediately reply to a query seeking information on whether the agency planned any further measures that could affect Duke's eligibility for future grants.

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## **Politico Pro**

### **Duke to pay federal government \$112.5M in research fraud case**

<https://subscriber.politicopro.com/education/whiteboard/2019/03/duke-to-pay-federal-government-1125m-in-research-fraud-case-2930725>

**Benjamin Wermund**

**Posted: 1:07pm, March 25, 2019**

Duke University will pay the federal government \$112.5 million to settle a closely watched lawsuit



accusing a lab technician of making up data to get federal research funding, the university announced today.

The lab technician, who previously plead guilty to two counts of forgery, falsified and fabricated data to get grants from the National Institutes of Health and the EPA between 2006 and 2013, according to a three-year review of grants she received, Duke said in its announcement. The technician embezzled federal grant funds awarded to the university.

Duke says it has also retracted scientific publications that relied on the data, gathered in her experiments, which involved measuring the lung function of lab mice.

The Department of Justice said in a statement that 30 grants were involved.

The settlement ends a 2014 lawsuit filed by a former Duke employee under the False Claims Act.

The university also announced a series of changes it will make, including appointing a new advisory panel tasked with offering recommendations by June 30 on how to boost research integrity, as well as a separate oversight committee.

“This settlement sends a strong message that fraud and dishonesty will not be tolerated in the research funding process,” said EPA Acting Region 4 Administrator Mary S. Walker. “We will continue to take appropriate legal measures to ensure a fiscally sound system that protects grant funds.”

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## **Bloomberg Environment**

### **Flint Water Woes Spur States to Act on Lead as EPA Struggles**

<https://news.bloombergenvironment.com/environment-and-energy/flint-water-woes-spur-states-to-act-on-lead-as-epa-struggles>

**David Shultz**

**Posted: 5:30am, March 25, 2019**

- States make moves to reduce lead in drinking water as EPA delays regulatory updates
- But huge costs of replacing pipes pose problems for some state officials

The EPA has been struggling to update its regulations on lead in drinking water for nearly a decade now, pushing back its self-imposed deadlines to unveil new policies nearly a dozen times.

Many states have stepped into this regulatory lurch and have pursued or enacted their own policies—everything from launching inventories of lead pipe locations to mandating lead pipe replacement. But there are some lead regulations that states simply don’t have the resources, expertise, or legal authority to pursue, water industry officials and observers say.

“States can take on this issue. They can do a lot and we’re already seeing it,” Tom Neltner, a food safety researcher who served as an adviser to the Environmental Protection Agency on lead issues, said. “But the reality is, we need a national solution.”

**Out In Front**

California is among the states that are furthest out in front of the federal government on regulating lead, a toxic metal that can cause irreversible, lifelong damage when children ingest it.

The primary sources of lead in drinking water are the millions of lead pipes still in use across the country, especially in older communities built before scientists fully understood the dangers of lead exposure.

The Golden State has required its water utilities to identify the material composition of all of the pipes currently in use by July 1, 2020, and also required the utilities to develop a time frame for replacing lead pipes.

Kurt Souza, an assistant deputy director at California's Water Resources Control Board, said this policy arose because many utilities don't know what their pipes are made of. But he told Bloomberg Environment the policy applies only to pipes owned by a utility, and not pipes on private property that connect homes to water mains.

Washington state's Department of Health also launched an initiative to identify where lead pipes are in use, but its initiative was voluntary, according to Nathan Ikehara, an environmental engineer with the department.

But, Ikehara said, even though utilities weren't required to give his department information, those that didn't numbered in the single digits. He said this high participation rate was probably a function of increased awareness of the dangers of lead after the Flint, Mich., crisis.

"There was a lot of public concern," Ikehara said. "We saw a lot of [utilities] that were very concerned about this."

Illinois, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, and Wisconsin also revamped their lead regulations, launched lead pipe replacement initiatives, or both after the Flint crisis, according to [research](#) compiled by the Environmental Defense Fund.

#### Michigan's Efforts

And then there's Michigan itself.

The state overhauled its own lead regulations last year and went further than nearly every other state by lowering its safety threshold for lead concentrations in water by 20 percent. The federal government requires utilities to take action if lead reaches above 15 parts per billion in water, while Michigan's new regulations lowers that number to 12.

The state also is also requiring its utilities to replace all lead pipes—on both public and private property—over the next 20 years. A group of Michigan utilities is currently [suing](#) the state on the grounds that this requirement is an unfunded mandate of more than \$2.5 billion.

Scott Dean, a spokesman for Michigan's Department of Environmental Quality, said in an email that the state provided \$9.5 million in grants last year to help utilities get started on replacing the pipes. Gov. Gretchen Whitmer (D) [asked](#) Michigan legislators earlier this month to provide her with an additional \$120 million for utilities.

#### EPA Working Since 2011

So where have federal regulations on lead been during this time?

The EPA's current framework for how to regulate lead in drinking water dates back to 1991. It lays out what water utilities must do to prevent their pipes from corroding and leaching lead into tap water—and the steps they must take if this does happen.

The EPA has been working on updating its regulatory framework since at least 2011. At that time, the agency expected it would be able to formally unveil its proposed update by the spring of 2012. (RIN: [2040-AF15](#))

But that self-imposed deadline came and went with no proposal. Many years later, the EPA still hasn't formally proposed new lead regulations and it has pushed back its timeline to release this proposal on eight separate instances. Andrew Wheeler, the agency's current administrator, told Bloomberg Environment that the EPA is now planning on releasing its updated lead regulations before the end of this year.

Neltner, head of chemicals policy with the Environmental Defense Fund, said his experience advising the EPA on this issue led him to believe that the agency is struggling to find a way to strengthen its lead regulations without mandating lead pipe replacement nationwide—essentially, managing lead rather than removing it. EDF is a nonprofit environmental advocacy group.

"Managing something in place—managing asbestos in place, managing radon in place—is hard,"

Neltner told Bloomberg Environment. “But we’ve decided it’s easier to live with the lead pipes. When you manage it in place, it’s hard to get the rule right.”

Do States Need EPA?

But Neltner said this may be an issue states are uniquely qualified to solve without federal leadership.

With most environmental contaminants, only the EPA has the scientific resources and expertise to develop a numerical threshold for safe exposure. However, Neltner said, in this case the problem isn’t scientific but financial: States just need to come up with enough money to be able to find their lead pipes and then remove them.

“Tightening numbers is helpful in reducing exposure, but it misses the bulk of the problem,” he said. “It doesn’t really solve the problem, other than just cranking it tighter on utilities.”

Of course, if the problem is just a financial one, then that means the onus is on state officials and state legislators to exert the political will to allocate the potentially billions of dollars that will be needed to rip pipes out of the ground. Ikehara said, in his experience, it comes down to how highly a state and its citizens prioritize lead-free tap water.

“I think that Washington state has demonstrated the wherewithal to say that, if it’s important enough to the citizens and it’s important enough to the government, we’re not going to wait on making it a national priority,” he said.

—With assistance from Alex Ebert.

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## **E&E News**

### **Along Almighty Mississippi, cities swap sandbags for marshes**

<https://www.eenews.net/climatewire/stories/1060128107/>

**Daniel Cusick**

**Posted: March 25, 2019**

Mayor Rick Eberlin of Grafton, Ill., knows that by the end of this week he will probably be in another fight with the Mississippi River.

But sandbags and flood walls are not in his arsenal.

The city of 640 people just below the confluence of the Illinois and Mississippi rivers will allow floodwaters to sweep across its low-lying areas, enveloping roads, parks, docks and a strip of scruffy riverside lots where no one has lived since the Great Flood of 1993.

"We don't use walls or sandbags. There's nothing to protect," Eberlin said Friday afternoon. "What we do is pray that it doesn't get as high as the forecast. Then we cope with it."

But don't mistake Eberlin's resignation as surrender.

Grafton has been through 18 high-water events since 1993, and Eberlin, a farmer, has learned a few things about negotiating with the Mississippi River. One is to let flood tides go where they want to go.

Eberlin is one of a growing number of Mississippi River mayors who are rethinking what it means to live next to a river whose floods seem less predictable than ever — when spring rains become bomb cyclones and six weeks of gradual winter snowmelt can be compressed into two weeks of sheet-flow

flooding across frozen ground.

"What used to be a high-water event every two, three, five years, now it seems we're getting it every year, sometimes twice a year," Eberlin said. "I know we've got a different weather pattern, and the events are getting more fierce."

Towns like Grafton have little choice but to take adaptation to the next level.

Rather than simply pulling back from the river's edge, communities are looking at landscape-scale flood control measures that are also environmentally restorative. Towns are constructing — or rather, allowing nature to reconstruct — marsh and wetland areas that were once the targets of dredges.

When Grafton built a new riverside marina in 2006, it placed tons of dredge material into a river shallow to help establish what is now a functioning wetland that traps sediment; slows water; and provides habit for fish, waterfowl and small mammals.

It also helps reduce flood damage downriver, where communities south of St. Louis have witnessed some of the worst floods on record over the past decade. The events have fueled debate over the role that levees and flood walls have in worsening flood conditions for downstream neighbors ([Climatewire](#), Aug. 8, 2018).

Colin Wellenkamp, executive director of the St. Louis-based Mississippi River Cities and Towns Initiative, said mayors along the entire 2,300-mile length of the river are beginning to see the picture.

"We're more conscious of these things," he said. "Our mayors are really beginning to focus on not just managing water in their town, but managing on a corridor scale. It's not easy and it's not cheap, but it makes a hell of a lot more sense, and it saves the taxpayer a lot of money."

### **'Doing exactly what it's supposed to do'**

Davenport, Iowa, located a few hundred miles upriver from Grafton, has been an exemplar of landscape-level flood protection.

The city of 102,000 is home to the largest urban wetland on the Upper Mississippi River. Known as the Nahant Marsh, the 305-acre preserve was for decades a hunting and skeet-shooting club. When the club closed in 1995, the marsh was so polluted with spent lead that more waterfowl were dying of toxic exposure than gunshot.

EPA declared the Nahant Marsh a Superfund site in the late 1990s. After the removal and cleaning of about 60,000 cubic yards of toxic soil, the site was handed back to the city. It's managed today as an education center, providing residents with rare access to seasonally wet bottomland forest, marshland and open water habitat.

But the Nahant Marsh's greatest community benefit is its ability to act as a massive urban floodwater sponge, catching and filtering up to 2 billion gallons of water during peak flows on the Mississippi.

Brian Ritter, executive director of the nonprofit organization that manages the marsh, said the city of Davenport has long viewed flooding as part of its natural heritage and has adapted accordingly.

Like Grafton, Davenport has no levee or flood wall. Its roughly 9-mile riverfront, including its signature park, is designed to be submerged in floodwaters for weeks at a time.

Former Davenport Mayor Pat Gibbs, who was criticized in the mid-1990s for refusing to build a flood wall along the waterfront, told the *Quad-City Times* last June that he has no regrets about the decision, even as Davenport's across-the-river neighbor, Rock Island, Ill., stands by its decision to build one in the 1970s.

"I still believe you give to the Mississippi what belongs to it," Gibbs told the newspaper. "If the water wants to come in, it'll come in no matter what you build."

But as flood frequency and intensity has risen over the last 25 years, the Nahant Marsh has become a community asset in ways few people considered before the Great Flood of 1993.

"We're flooding right now," Ritter said last week. "The river went up last week, and the forecast says it will go up again in early April. Our soils are completely saturated, so the marsh is doing exactly what it's supposed to do."

Like Eberlin in Grafton, Ritter has kept tabs on high-water events in Davenport over the last two decades. He is convinced climate change is leading to more extreme precipitation and more floods.

"This is our 21st flood that we're experiencing since the year 2000," he said. "Historically on this stretch of the river, it was one or two floods per decade."

"I mean, you know, climate change and land use — it's the double whammy," he added. "At one time we had this wonderful prairie sponge all through the Midwest that would soak up the rain and snowmelt. Now we have to build the sponge."

Even the Army Corps of Engineers, which has invested billions of dollars to line the Mississippi River with levees and flood walls over the last century, has begun to see the benefits of reconnecting the river to its natural floodplain.

In 2017, the Army Corps worked with Iowa, county officials and the Green Island Levee District to buy out privately owned farm tracts along the Maquoketa River, a Mississippi River tributary south of Dubuque, that saw frequent severe flooding.

After high water breached a 1940s-era levee on the Maquoketa in 2010, the Army Corps opted not to patch the holes but instead offer it to the state as an extension of the 4,000-acre Green Island Wildlife Management Area, one of the state's most important flood backwaters and wildlife sanctuaries.

Calls to the Army Corps' Upper Mississippi River Restoration Program, based in Rock Island, were not returned Friday.

Ross Baxter, land projects director for the Iowa Natural Heritage Foundation, said at the time that returning the affected areas to a natural state avoided future infrastructure expenses while better protecting other surrounding farmland from floods.

"Ultimately it made more financial sense to buy, protect and restore the land than fix the levee and continue to farm the flood-prone land," Baxter said.

Nathan Woiwode, North America climate adaptation project manager for the Nature Conservancy, said the organization has observed a significant uptick in nature-based flood protection measures in the Mississippi River Basin, especially in states like Iowa, Illinois and Missouri.

"These states are taking very intentional looks at how they've done floodplain management in the past," Woiwode said. "It's not purely about flood protection. It's also about protecting agricultural interests and creating community assets."

Woiwode also pointed to the recently launched "Engineering With Nature," an Army Corps initiative that aims to incorporate natural solutions to water management. The agency in January published an atlas detailing 56 projects that apply nature-based approaches to challenges around river management and flood control.

"It's about understanding that the things we used to be able to rely upon, like how the water moves through a river system, it's all changing," he said. "It's about recognizing that we need to start planning for a very different future."

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## **San Francisco Chronicle**

### **As Trump tries to roll back clean water rules, California seeks stronger protections**

<https://www.sfchronicle.com/science/article/As-Trump-tries-to-roll-back-clean-water-rules-13712526.php>

**Kurtis Alexander**

**Posted: 6:27am, March 25, 2019**

CLEMENTS, San Joaquin County — When grower Brad Goehring looks across his rows of grapes, he can't help but see a pool of murky water that breaks the rhythm of his vines, which otherwise stretch steadily into the Sierra foothills.

The pool is relatively small, maybe half an acre, but vital, according to environmental regulators. They say it helps to clean the runoff from Goehring's fields and provides a home for critters such as marsh birds. And by law, it can't be disrupted, which is what makes this mini wetland a headache for Goehring.

"I'm paying for this land, but I can't farm it," he said on a recent afternoon as he stood in his vineyards about 40 miles southeast of Sacramento where the water chokes back his Pinot Gris. "This land is doing nothing for me."

Now Goehring is worried about seeing more cropland lost to regulation. He's among the many California farmers caught in the middle of a tug-of-war between President Trump's administration and the state over the reach of the federal Clean Water Act.

The U.S. Environmental Protection Agency is working to rein in the landmark law and halt what it sees as excessive oversight of small marshes, creeks and ponds, like the scores that spill across California's farm country. State regulators are seeking to maintain and even expand watershed protections. They say too many waterways have been eaten up by human sprawl.

"Our policy makes sure we are doing what we can to protect them," said Jonathan Bishop, chief deputy director of the State Water Resources Control Board, which could put new rules into play as soon as next month.

The stakes are huge. Whatever regulation emerges between the state and federal governments will affect potentially millions of acres — where developers may want to build homes, where cities are eyeing new roads, and where farmers may wish to extend their fields.

Goehring, a fourth-generation grower in the Central Valley town of Clements, sees a rising demand for his Cabernet Sauvignon and Petite Sirah. Yet the prospect of growing more grapes, he said, is clouded by uncertainty over where he'll be allowed to plant.

Such confusion has caused him problems before. When Goehring plowed a field that regulators deemed a protected wetland years ago, federal agents in a black sport utility vehicle showed up at his property with the threat of arrest and \$100,000-a-day penalties.

He was cleared of wrongdoing, but only after a lengthy legal battle.

Today, Goehring has a lot of powerful allies. California's farming and wine industries, the building and construction trades and many cities and chambers of commerce share his apprehension about the looming regulation. On the other side of the equation, a growing roster of scientists and environmental groups has lined up in support of stronger protections.

"Am I tired of the issue? Yeah," Goehring said. "I would like it fixed so we don't keep playing games like this. But it doesn't look like we have hopes of that happening in the near future. We'll just have to stand and fight."

The fight over what waterways deserve protection has been brewing for a long time.

A pair of U.S. Supreme Court decisions more than a decade ago, stemming from two proposed developments on top of marshes, cast doubts on the scope of the Clean Water Act. The justices agreed that rivers and lakes are subject to oversight, but not necessarily the small and intermittently flowing creeks, ponds and wetlands that feed the larger water bodies.

The Obama administration sought to do away with the ambiguity. Fearing that watersheds were being irreparably harmed, federal officials in 2015 rewrote the rules for what's covered under the Clean Water Act, known as Waters of the United States, or WOTUS, extending safeguards to the small upstream flows. These channels and basins contain little and sometimes no water, but they make up the majority of the nation's waterways.

Two years later, the Trump administration began the formal process of undoing President Obama's rules. The president cited fears about stunting economic growth and said there was simply no need to regulate "nearly every puddle or ditch." The EPA hasn't estimated how many places will lose federal protection, but it's enough to alarm water experts.

Wetlands and creeks, scientists note, help with flood protection and groundwater recharge in addition to providing habitat for fish and wildlife and filtering pollution. Even one isolated body of water, if tainted, can create widespread problems as its sullied waters soak into the aquifer below or are washed by rain into a nearby river or lake.

"Everything is connected hydrologically," said Leon Szeptycki, executive director of Stanford University's Water in the West program. "You can't just pick arbitrary lines (for protection). The fact that we've already destroyed so much wetlands and altered so many streams makes it all the more important that we protect what we have."

While California regulators have long deferred to the Clean Water Act to decide what water bodies to protect, the constant rejiggering of the federal law prompted them to begin drafting their own watershed policy. The State Water Board started the effort more than 10 years ago with the hope of ensuring adequate oversight as well as being more consistent in its enforcement.

Now, supporters of the state plan see the policy as a way to insulate California from the Trump administration's rollbacks. The State Water Board is scheduled to take up the matter April 2.

"Once the state gets its act together on this, the policy will be less capricious and more predictable than the Clean Water Act," said Carol Witham, a botanist who runs an environmental consulting firm in Sacramento

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